

16-000-0700 /



STATE OF MICHIGAN  
EXECUTIVE OFFICE  
LANSING

October 2, 2015

RICK SNYDER  
GOVERNOR

BRIAN CALLEY  
LT. GOVERNOR

The Honorable Dan Kildee  
U.S. House of Representatives  
227 Cannon House Office Building  
Washington, DC 20515

Dear Congressman Kildee:

As part of our ongoing dialogue related to the City of Flint's water, I want to make sure you are aware of the actions taken by the State of Michigan to ensure that the residents of Flint have access to safe, clean drinking water. These actions include:

1. Immediately testing Flint's public school district to ensure that drinking water is safe. Testing also will be available at no cost to any other school in Flint.
2. Expanding health exposure testing of individual residences.
3. Offering water testing at no cost to Flint residents to assure the water is safe.
4. Begin optimizing corrosion controls in the Flint drinking water system.
5. Convening a "Safe Drinking Water Technical Advisory Committee" to ensure the best technology, practices, and science are being utilized. This Committee will include an expert from the EPA's Office of Research and Development.
6. Accelerating water system improvements to address replacement of lead service lines.
7. Expediting completion of Karegnondi Water Authority.
8. Appointing Dr. Eden Wells as the Flint Drinking Water Public Health Advisor.
9. Providing water filters to residents of Flint.
10. Expanding a comprehensive lead education initiative.

While these actions will mitigate the risk of lead exposure in the immediate and long term, there are a number of federal regulatory hurdles that impede our ability to further reduce risk. As the federal representative for the City of Flint, I would appreciate your assistance on the following federal items:

1. Make federal Drinking Water Revolving Loan funds available for the replacement of private service lines.
2. Ease and/or eliminate restrictions on the purchase of bottled water for SNAP and WIC recipients. This should include a temporary, targeted increase in SNAP benefits so that the purchase of bottled water does not count against a recipients' current SNAP allocation.
3. Request that the EPA expedite promulgation of the long term revisions to the Lead and Copper Rule.

As the situation continues to evolve, I would also appreciate your assistance in the event that additional federal action is needed.

Thank you for your continued advocacy related to the City of Flint's water. I have appreciated the ongoing dialogue and am heartened to have a partner in ensuring that the residents of Flint have access to safe, clean drinking water. I look forward to continuing to work with you on this and many other issues of importance to Michiganders.

Sincerely,

Rick Snyder  
Governor



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF WATER

OCT 28 2015

The Honorable Dan Kildee  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Kildee:

Thank you for your October 6, 2015, letter asking whether federal law permits a state to use the Drinking Water State Revolving Fund to finance the replacement of privately owned lead water service lines.

Drinking Water State Revolving Fund loans can be used to finance lead service line replacement on public and private property, provided the loans are made to an eligible entity in accordance with the Safe Drinking Water Act to protect public health, and all other Drinking Water State Revolving Fund requirements are met. The eligible entity in this case is the Flint community water system. The U.S. Environmental Protection Agency is actively discussing the option of using the Drinking Water State Revolving Fund for lead service line replacement with the Michigan Department of Environmental Quality and the City of Flint.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cathy Davis in the EPA's Office of Congressional and Intergovernmental Relations at [Davis.CatherineM@epa.gov](mailto:Davis.CatherineM@epa.gov) or (202) 564-2703.

Sincerely,

A handwritten signature in black ink, reading "Kenneth J. Kopocis".

Kenneth J. Kopocis  
Deputy Assistant Administrator



RS-16-000-0213

RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
EXECUTIVE OFFICE  
LANSING

BRIAN CALLEY  
LT. GOVERNOR

October 2, 2015

The Honorable Dan Kildee  
U.S. House of Representatives  
227 Cannon House Office Building  
Washington, DC 20515

Dear Congressman Kildee:

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As the situation continues to evolve, I would also appreciate your assistance in the event that additional federal action is needed.

Thank you for your continued advocacy related to the City of Flint's water. I have appreciated the ongoing dialogue and am heartened to have a partner in ensuring that the residents of Flint have access to safe, clean drinking water. I look forward to continuing to work with you on this and many other issues of importance to Michiganders.

Sincerely,

Rick Snyder  
Governor



October 6, 2015

Administrator Susan Hedman  
Environmental Protection Agency Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

Administrator Hedman:

An independent scientific study recently discovered that the water in my hometown of Flint, MI, contains dangerous levels of lead. I, along with many others, am pursuing a variety of avenues to help address this situation and I wanted to clarify one possible option: It is our understanding that federal law permits states to use Safe Drinking Water State Revolving Funds to finance the replacement of privately owned lead water service lines, is this correct?

I received the attached letter from Michigan Governor Rick Snyder on October 2, 2015, asking for my assistance in regards to this question and I would appreciate further clarification.

Again, thank you for helping to clarify this question as well as exploring all options to ensure the people in Flint have safe drinking water.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Kildee".

Dan Kildee  
MEMBER OF CONGRESS

A handwritten signature in black ink, appearing to read "Debbie Stabenow".

Debbie Stabenow  
U.S. SENATOR

A handwritten signature in black ink, appearing to read "Gary C. Peters".

Gary C. Peters  
U.S. SENATOR

16-000-4224

F. JAMES SENSENBRENNER, JR.  
FIFTH DISTRICT, WISCONSIN  
COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON  
CRIME, TERRORISM, HOMELAND  
SECURITY, AND INVESTIGATIONS  
CHAIRMAN  
COMMITTEE ON SCIENCE, SPACE,  
AND TECHNOLOGY



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-4905**

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DISTRICT OFFICE:  
120 BISHOPS WAY, ROOM 154  
BROOKFIELD, WI 53005-6294  
262-784-1111  
OUTSIDE MILWAUKEE METRO  
CALLING AREA:  
1-800-242-1119  
WEBSITE:  
[HTTP://SENSENBRENNER.HOUSE.GOV](http://SENSENBRENNER.HOUSE.GOV)

January 28, 2016

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator McCarthy:

I write to you about the water crisis that Flint, Michigan is experiencing. The distrust that Flint's residents, and millions of other citizens, have for our government is disturbing. It is widely reported that your agency contributed to the cynicism people are feeling, particularly in Flint.

Revelations that an Environmental Protection Agency (EPA) official ignored scientific findings and lied to the people of Flint come just weeks after finding that your agency could have prevented the Gold King Mine Spill. It is no wonder that the American people are growing ever more dissatisfied with the level of service that our government agencies provide.

The government's first obligation is to protect the health and welfare of its citizens. Allegations that the EPA ignored or even hid scientific data about people being poisoned are deeply disturbing. We may be at different ends of the political spectrum, but I want to support your mission to "protect human health and the environment." However, I am deeply concerned about the culture of an agency that consistently persecutes honest business, promotes special interest and liberal political darlings like the ethanol industry, and then blatantly ignores or even covers up a public health crisis.

The EPA must refocus on its core mission and stop promoting political agendas like ethanol, alternative energy, and cap-and-trade policies that do more harm to our economy than they do good for our environment. It is clear that your agency is too absorbed with these issues and is missing things that cause immediate harm to our citizens. First and foremost, the EPA must fulfill its core duties.

To begin the process of restoring trust in your agency, you should recommit to fulfilling President Obama's promise of leading the most open and transparent government. Open government ensures accountability, and your agency must commit to opening your scientific studies to the American people.

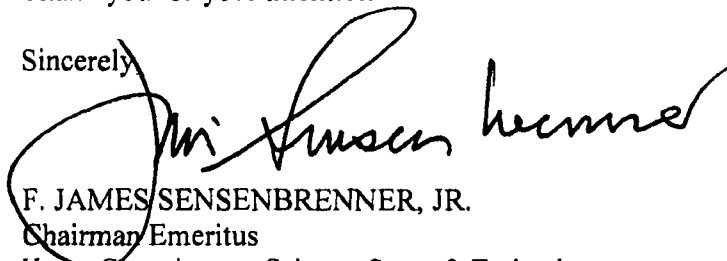
I would also like you to address the following questions:

- Was the EPA in contact with researchers from Virginia Polytechnic Institute and State University (Virginia Tech) regarding Flint, Michigan's water supply?
  - Please provide all correspondence between Virginia Tech and the EPA to me.
- Did the EPA learn from any other sources that Flint's water supply was contaminated?
- Did the EPA collect its own water samples in Flint?
  - If yes, what were the results?
  - If no, why not?
- Are there other water supplies that the EPA is currently investigating for possible lead contamination?

Please respond to this letter by February 18.

Thank you for your attention.

Sincerely,



F. JAMES SENSENBRENNER, JR.  
Chairman Emeritus  
House Committee on Science, Space & Technology

16-000-1806

## Congress of the United States

Washington, DC 20515

November 6, 2015

Administrator Gina McCarthy  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20004

Dear Administrator McCarthy:

As you know, the City of Flint had, and potentially still could have, dangerous levels of lead in its drinking water. We appreciate the Environmental Protection Agency's (EPA) creation of the Flint Safe Drinking Water Task Force and other efforts to provide access to safe, reliable, clean water to the residents of Flint. We seek further information regarding the sustained commitment by the Task Force to work with the State of Michigan to address the long-term effects of lead exposure on Flint's children.

It is our understanding that the City of Flint, the State of Michigan, and the EPA have monitored the situation in Flint since the first report of poor water quality in 2014. However, it is clear that various opportunities to predict and prevent contamination were not taken, exposing Flint residents, and especially infants and pregnant women, to dangerously high levels of contaminants including, but not limited to, lead. This failure of government to ensure the public's safety and health must not be repeated in Flint or anywhere else. While progress is being made to improve the water quality after reconnecting to the Detroit Water System, Flint's residents and its water system are still vulnerable to short and long-term impacts.

It is critical that the local, state, and federal partners remain vigilant, and that EPA take a strong leadership role through the Flint Safe Drinking Water Task Force to prevent further contamination during the current transition to Detroit and the future transition to the permanent connection to Lake Huron source water through the Karegnondi Water Authority (KWA) pipeline. In an effort to understand the actions being taken by Task Force and address current and future challenges with Flint's water, we seek answers to the following questions:

- How often does the Flint Safe Drinking Water Task Force communicate amongst itself, and what are the communication protocols?
- How long will it take for corrosion control agents to fully create a barrier between water and the inside of the pipes?
- How are testing methods being improved to accurately measure water quality and correct testing mistakes of the past?
- How is the EPA and the Flint Safe Drinking Water Task Force interfacing with other federal agencies, such as the Department of Health and Human Services, the U.S. Department of Agriculture, the Department of Education, and other agencies with


respect to the future needs of the residents of Flint stemming from the long-term effects of toxic lead exposure on Flint's children from its drinking water?

- In the future, will the EPA notify residents directly if they believe the local or state government actions are inadequate to properly communicate significant risks to the public?
- The State of Michigan is responsible for ensuring compliance with federal drinking water standards. In addition, the state has elected to assume the legal responsibility for disbursing the resources it receives from EPA's Drinking Water and Clean Water State Revolving Funds. How will the Task Force provide the ongoing, long-term support and oversight needed to ensure the state complies with federal standards and allocates the revolving funds in a manner that most effectively protects public health?

We encourage you to continue monitoring and supporting any and all ongoing measures by the EPA and the Task Force to test for and reduce contaminants in drinking water, prepare for the future transition to the KWA pipeline to Lake Huron, and identify and replace aging water infrastructure. Your presence in Flint will help restore the confidence in the ability of water quality regulators and begin to rebuild the trust in the effectiveness of the critical safeguards found in laws such as the Safe Drinking Water Act.

We appreciate your prompt response to these questions and invitation as well as your continued attention to this matter.

Sincerely,

  
Gary C. Peters  
U.S. Senator

  
Debbie Stabenow  
U.S. Senator

  
Dan Kildee  
Member of Congress



AL-16-000-1806

United States Environmental Protection Agency  
Regional Administrator  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590  
DEC 07 2015

The Honorable Daniel Kildee  
Member, U.S. House of Representatives  
Washington, DC 20515-1313

Dear Congressman Kildee:

Thank you for your November 6, 2015 letter regarding the U.S. Environmental Protection Agency's Flint Safe Drinking Water Task Force.

As a result of your letter, we have scheduled weekly calls to brief your staff on the work that the EPA Task Force is doing to provide technical assistance to the State of Michigan and the City of Flint. During those calls we have discussed the Task Force's work with the State and the City to optimize corrosion control for the Flint system, following the decision to switch to drinking water supplied by the Great Lakes Water Authority. We have also discussed the work that the Task Force is doing to help the State and City prepare for the planned switch to water supplied by the Karegnondi Water Authority in 2016. We will continue to provide weekly briefings on Task Force activities for as long as your staff finds the briefings to be useful.

Thank you again for your letter. If you have further questions, please feel free to contact me or your staff may contact Denise Fortin or Ronna Beckmann, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

A handwritten signature in black ink, appearing to read "S Hedman", is written over a horizontal line.

Susan Hedman  
Regional Administrator

AL-16-000-1806



United States Environmental Protection Agency  
Regional Administrator  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590  
**DEC 07 2015**

The Honorable Debbie Stabenow  
United States Senate  
SH-702 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Stabenow:

Thank you for your November 6, 2015 letter regarding the U.S. Environmental Protection Agency's Flint Safe Drinking Water Task Force.

As a result of your letter, we have scheduled weekly calls to brief your staff on the work that the EPA Task Force is doing to provide technical assistance to the State of Michigan and the City of Flint. During those calls we have discussed the Task Force's work with the State and the City to optimize corrosion control for the Flint system, following the decision to switch to drinking water supplied by the Great Lakes Water Authority. We have also discussed the work that the Task Force is doing to help the State and City prepare for the planned switch to water supplied by the Karegnondi Water Authority in 2016. We will continue to provide weekly briefings on Task Force activities for as long as your staff finds the briefings to be useful.

Thank you again for your letter. If you have further questions, please feel free to contact me or your staff may contact Denise Fortin or Ronna Beckmann, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

A handwritten signature in dark ink, appearing to read "S. Hedman", is written over a horizontal line.

Susan Hedman  
Regional Administrator

16-000-4321

FRED UPTON, MICHIGAN  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-2927  
Minority (202) 225-3641

February 3, 2016

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator McCarthy,

Since our letter to you of January 15, 2016 requesting information about the drinking water emergency in Flint, Michigan, a number of state and federal actions have been taken to respond to the urgent situation. These actions included more direct involvement by the Environmental Protection Agency (EPA) through its January 21 administrative order directing the Michigan Department of Environmental Quality (MDEQ) and the City of Flint to take certain immediate actions to address the ongoing safety concerns with Flint's drinking water system.

We appreciate your responses to our oversight requests to date, which have included two briefings with relevant Office of Water staff. We look forward to continued, timely access to appropriate officials and information necessary for our assessments of the situation and response activity.

As part of our ongoing oversight, which we are conducting pursuant to Rules X and XI of the U.S. House of Representatives, we seek information sufficient to understand the critical factors that contributed to the crisis and to enable us to evaluate proposed solutions. In keeping with these efforts, and by way of follow-up to Committee staff meetings with your staff, we ask that you respond to the following by February 17, 2016:

1. Describe the current and anticipated specific roles and responsibilities for federal, state, and city authorities in responding to the Flint water emergency. Please include in this response the identification of the lead EPA officials, and their offices and the other federal agency officials and their offices working with EPA on the response and providing technical assistance.

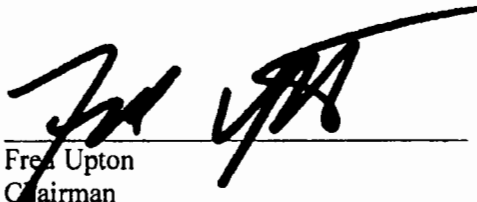
2. Please outline the procedures federal, state, and local authorities will take to assess the scope and levels of public exposure to lead and other contaminants of concern through the Flint drinking water system, including:
    - a. current available exposure information and lead levels in different parts of the drinking water system;
    - b. the timing for completing this assessment; and,
    - c. the benchmarks EPA considers necessary to determine that Flint's drinking water is safe for consumption and use.
  3. Provide an estimate of the timing for corrosion control to provide sufficient coatings on service lines to reduce lead in the drinking water to safe levels, as well as any reasonably anticipated factors that could affect this timeline and the effectiveness of this approach.
  4. Your January 21, 2016 Emergency Order details several required actions by the MDEQ and the City of Flint. What has been the EPA's experience since issuance of the order with both the State and the City in response to that order?
  5. Describe in detail when and how EPA learned that Flint had no corrosion control treatment in place.
    - a. When and how did EPA learn that Flint chose not to implement a corrosion control treatment?
    - b. What is EPA's understanding of why Flint chose not to implement a corrosion control treatment? And why did MDEQ decide not to require Flint to implement a corrosion control treatment immediately once MDEQ learned there was not one in place?
    - c. What was the extent, if any, to which Flint's treatment for controlling E. coli, and its resultant treatment for disinfection by-products (trihalomethanes), contributed to pipe corrosion?
    - d. What basis did MDEQ provide EPA for not requiring Flint to have a corrosion control treatment in place at the time of the switch to the Flint River as a water source?
    - e. What analyses, including but not limited to legal analysis, did EPA perform between April and November 2015 regarding MDEQ's decision not to require Flint to implement a corrosion control treatment? Please provide copies of any memoranda drafted between April and November 2015 reflecting any such analysis.
  6. Did EPA perform or require MDEQ or the Flint drinking water system to perform an assessment of the Flint River water's quality, including information that might pertain to the potential of the Flint River's water to cause corrosion within the Flint drinking water system, prior to the use of the Flint River as a drinking water source?
  7. Please provide copies of all briefing materials prepared by Region 5 personnel for federal, state, and local officials from January 2013 through February 2016 relating to the Flint drinking water system, including the decision to use the Flint River as a drinking water source.
-

Letter to The Honorable Gina McCarthy  
Page 3

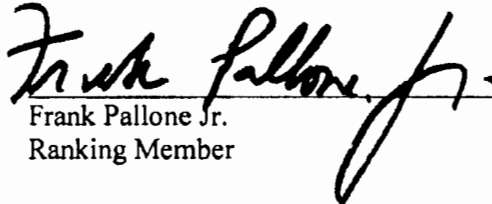
8. Please provide copies of all briefing materials prepared by state and local officials for EPA officials from January 2013 through February 2016 relating to the Flint drinking water system, including the decision to use the Flint River as a drinking water source.
9. Has the EPA reduced or ceased to perform compliance verification activities, such as sampling or audits, under the Safe Drinking Water Act? In the wake of the drinking water crisis in Flint, does EPA intend to restore any reductions in compliance verification of public drinking water systems? To the extent budgetary limitations have affected EPA's enforcement capabilities, what resources are necessary for EPA to fully implement Safe Drinking Water Act compliance verification activities?

If you have any questions about this request, please contact Dave McCarthy of the majority committee staff at (202) 225-2927 or Rick Kessler with the minority staff at (202) 225-3641.

Sincerely,



Fred Upton  
Chairman



Frank Pallone Jr.  
Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 19 2016

OFFICE OF  
WATER

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your February 3, 2016, letter expressing your concern regarding the drinking water crisis in Flint. The situation in Flint demands urgent and sustained action – at all levels of government – to protect the public and help the city recover. Following President Obama's January 14 emergency declaration, the Administration has deployed a multi-agency response effort in Flint, and the U.S. Department of Health and Human Services has been designated the lead federal agency responsible for coordinating federal government response and recovery efforts. As part of the broader federal response effort, the U.S. Environmental Protection Agency is intensely engaged in addressing ongoing threats to public health in Flint, in coordination with the city of Flint and the state of Michigan.

The EPA's immediate priority is to ensure that the residents of Flint have a safe and reliable drinking water supply. Prior to the current crisis, in 2014, the EPA offered technical assistance to the state and the city to return the drinking water system to compliance with the Total Coliform and Disinfection Byproducts rules.

Currently, as detailed below, we are taking an integrated approach to address the important factors related to Flint's drinking water system and lead in drinking water. We are providing technical assistance and review through our national experts on the EPA's Flint Safe Drinking Water Task Force, engaging directly on the ground on re-optimization of corrosion control, and providing extensive support to the city and the state through our own sampling and oversight of state and local sampling efforts. Additionally, we are implementing the Emergency Order issued under section 1431 of the Safe Drinking Water Act. Finally, we are taking actions to strengthen the implementation of the Lead and Copper Rule and to ensure the revisions of the rule further increase protection of public health.

We are focused on supporting the state and the city in addressing system-wide failures, including the lack of effective corrosion control. Re-optimizing corrosion control may take months to

complete, but the steps taken each day make progress towards achieving that goal. EPA scientists, water experts, community involvement coordinators and support staff from Region 5 and the Office of Research and Development are currently stationed in Flint. The organizational chart of EPA's Unified Command Structure is enclosed (Enclosure A). In addition, experts from EPA headquarters, labs and many other offices are supporting the EPA's comprehensive response to this public health emergency.

Beginning in October 2015, the EPA's Flint Safe Drinking Water Task Force, which includes agency experts in corrosion control and lead in drinking water systems, has provided technical assistance to the city of Flint and the Michigan Department of Environmental Quality on steps needed to re-optimize the system and ensure that lead testing is conducted using the proper sampling protocols. A list of Task Force activities is enclosed (Enclosure B), and information about the Task Force, including each set of recommendations, is available on the EPA's website, [www.epa.gov/flint/flint-safe-drinking-water-task-force](http://www.epa.gov/flint/flint-safe-drinking-water-task-force).

There are many factors that will affect the re-optimization of corrosion control, and it is critical that we use data-driven, site-specific information to assess the effectiveness of the corrosion control and ensure the treatment is optimized. EPA staff in Flint are currently conducting residential and water system sampling for lead and other drinking water contaminants and chlorine disinfectant residual – to assess the progress of actions that EPA has directed the state and city to take to restore the safe operation of the treatment plant and the distribution system. Specifically, we are conducting extensive chlorine residual sampling to make sure the system is adequately disinfected, and we are conducting extensive residential lead sampling to help us better understand where in the system the lead is coming from and to determine progress toward re-optimizing corrosion control treatment. We are posting sample results to the EPA's website, [www.epa.gov/flint](http://www.epa.gov/flint), as soon as they become available. We are also overseeing the residential/commercial drinking water testing and sentinel site and Lead and Copper Rule compliance sampling being conducted by the MDEQ.

In addition, the EPA is providing the city with pipe loop rigs at the drinking water plant that use lead pipes from Flint's distribution system. Pipe loop rigs are pilot-scale distribution systems that can be used to test different concentrations and combinations of treatment chemicals to assess their impact on lead corrosion. We will use the pipe loop rigs to evaluate the effects of water quality changes and different levels of orthophosphate treatment on lead release from the existing pipe scales in order to select the most effective treatment.

To address specific residents' concerns, we set up a Strike Team to visit and test every home that has lead sample results above 150 parts per billion to better understand lead levels in homes and to ensure that the water filters provided by the state are meeting their certified performance rating and adequately filtering lead from the water. By conducting these home visits, we were able to identify issues with aerators and existing in-home water filters. We were then able to help residents address these issues. Subsequently, we are sharing what we are learning from these visits more broadly with residents throughout Flint. In addition, we are working with officials

from the Genesee County Health Department, the Michigan Department of Health and Human Services, the Agency for Toxic Substances and Disease Registry, and the Centers for Disease Control and Prevention to investigate water quality where rashes have been reported. Further, we are conducting extensive community outreach and established a hotline to answer questions and share information.

As you noted in your letter, on January 21, 2016, the Administrator issued an Emergency Order under section 1431 of the Safe Drinking Water Act. The order directs the state of Michigan, MDEQ and city of Flint to take actions necessary to ensure that corrosion control is optimized and that the city establishes the capacity to operate its drinking water system in compliance with the requirements of the law. The EPA is working closely with the city, state and MDEQ on the implementation of actions under the order, and we will ensure that each of these steps is successfully completed in a timely manner. Enclosed is a copy of the order, which provides detailed information about the agency's involvement in Flint and relevant factual background (Enclosure C).

Since the issuance of the order, the state, MDEQ and city have made a number of submissions pursuant to that order and we are continuing to respond and review those submissions. These reviews are ongoing. One important provision of the order is to ensure information is available to the public and, as such, information regarding the submissions to the order are required to be posted to the MDEQ website at [www.michigan.gov/flintwater/0,6092,7-345--376646--,00.html](http://www.michigan.gov/flintwater/0,6092,7-345--376646--,00.html). Today, the agency sent a letter to the state, MDEQ and city regarding the status of work to address the serious and ongoing issues with the safety of Flint's public water system and to comply with the order (Enclosure D).

Looking forward, we are taking immediate actions to ensure that the drinking water crisis that occurred in Flint is never repeated. We will conduct an audit of the MDEQ's drinking water program to review public water system compliance with the Safe Drinking Water Act and MDEQ oversight of public water systems. Administrator McCarthy has asked EPA's Office of Inspector General to evaluate the agency's response and its oversight of the MDEQ. The agency will cooperate fully and looks forward to receiving, and promptly acting upon, the IG's assessment and recommendations. Administrator McCarthy also issued an agency-wide Elevation Policy directing the EPA's leadership to encourage prompt and decisive action to address critical public health concerns.

In addition, we are committed to improving the public health protection provided by the Lead and Copper Rule, which covers approximately 68,000 public water systems nationwide. We have begun actions to increase oversight of all state programs to identify and address any deficiencies in implementation of the Lead and Copper Rule. My staff is engaging with all states, system owners and operators and other stakeholders to identify and address lessons from Flint, other potential risks to drinking water safety, and the challenges posed by aging infrastructure nationwide. We will be taking additional near-term actions to further strengthen implementation of the existing Lead and Copper Rule.

Finally, we are actively working on revisions to the rule. In December 2015, the EPA received extensive recommendations from our National Drinking Water Advisory Council and other concerned stakeholders. We are carefully evaluating this input and national experience in implementing the current rule – including the events in Flint – to develop proposed improvements.

We recognize the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions and are committed to working with your staff on how best to accommodate the Committee's interests in the documents requested in your letter. We have initiated a search for responsive documents.

The EPA remains fully committed to ensuring that Flint's drinking water system is restored to proper functioning as quickly as possible. Again, thank you for your letter. If you have further questions, you may contact me or your staff may contact Cathy Davis in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2703 or Davis.CatherineM@epa.gov.

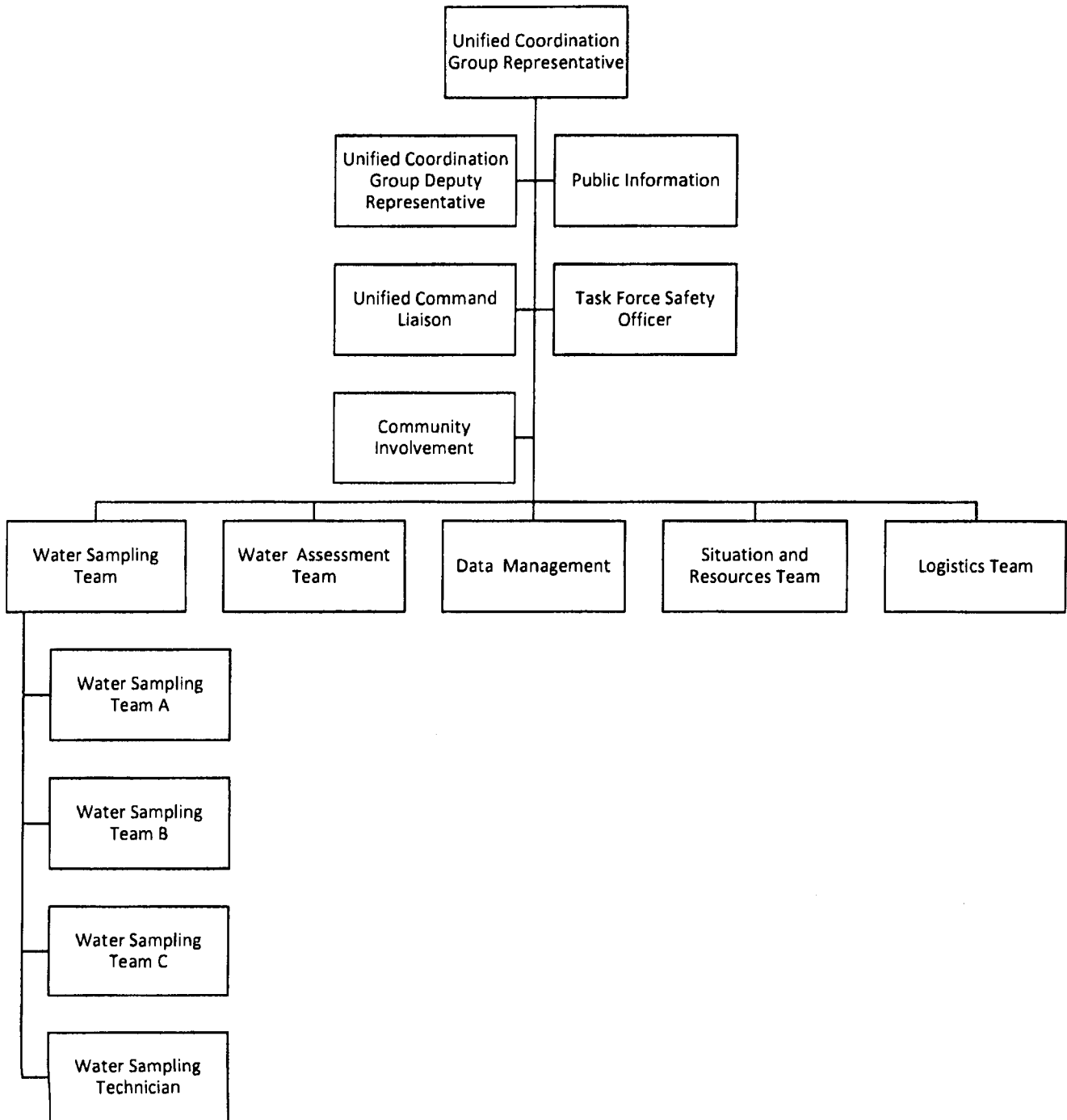
Sincerely,

A handwritten signature in black ink, appearing to read "J. Beauvais", with a stylized flourish at the end.

Joel Beauvais  
Deputy Assistant Administrator

Enclosures

**Enclosure A**  
**Organizational Chart**  
**Flint Drinking Water Response**  
**EPA Unified Command Structure**



## **Enclosure B: EPA's Flint Safe Drinking Water Task Force Activities**

Recommendations and additional information about the Task force are available at [www.epa.gov/flint/flint-safe-drinking-water-task-force](http://www.epa.gov/flint/flint-safe-drinking-water-task-force).

- **February 5, 2016** - Task Force provides recommendations on MDEQ's Draft Sentinel Site Selection.
- **January 20, 2016** - Task Force provides recommendations that all samples for lead analyses, whether for lead and copper rule compliance assessment or other purpose, be collected using wide-mouth sample bottles.
- **January 12, 2016** - Task Force has a conference call with Dr. Mona Hanna-Attisha to discuss how we can work together. One item identified and being planned is "lead in water" training for academic/technical/health people involved in Flint.
- **January 11, 2016** - Task Force discusses status of the Flint situation with the FEMA liaison in Flint and how the Task Force can better coordinate with the State of Michigan's Emergency Operations Center.
- **January 8, 2016** - Task Force has secured funding for the construction of a lead pipe rig system that will be used to evaluate lead corrosion control strategies and predict lead release in response to future water quality and treatment changes in Flint. The pipe rig system is a critical diagnostic tool and will be constructed in-house by Task Force members in EPA's Office of Research and Development.
- **January 7, 2016** - Task Force strongly recommends to Flint not to use excavation as a way to verify the presence of lead service lines as indicated in the Flint incident Action Plan. Physical disturbances can result in prolonged release of pipe scale and sediment with high lead content which can result in a significant increase in lead exposure risk to residents.
- **December 16, 2015** - Task Force provides recommendations that Flint develop and implement a Performance Assessment Plan prior to distribution of water from the Karegnondi Water Authority (KWA) source.
- **December 4, 2015** - Task Force provides comments on Michigan Department of Health and Human Services' "Draft Protocol for Collecting Residential Drinking Water Samples for Lead Analysis".
- **November 25, 2015** - Task Force provides MDEQ with a Draft "Preliminary Assessment of Optimization and Maintenance of Optimal Corrosion Control Treatment" (revised on December 22, 2015, and retitled to "Lead in Drinking Water - Preliminary Assessment"), which documents the activities necessary to enable EPA to provide advice and support to Flint in optimizing and maintaining corrosion control treatment under current water quality conditions and during the transition to the Karegnondi Water Authority (KWA) pipeline.
- **November 23, 2015** - Task Force provides comments on Flint's "Residential Drinking Water Lead & Copper Sampling Instructions".

- **November 10, 2015** – Task Force meets in Flint with Rep. Kildee and City of Flint officials to discuss technical issues with optimization of corrosion control.
- **October 30, 2015** – Task Force provides MDEQ with technical comments on Flint Corrosion Control Permit and cover letter.
- **October 23-24, 2015** – Task Force provides MDEQ with technical comments on Flint Corrosion Control Plan.
- **October 21, 2015** – Task Force provides MDEQ with technical comments on Draft School Sampling Protocol.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE  
WASHINGTON, D.C.

IN THE MATTER OF:	:	Proceedings Pursuant To
	:	Section 1431 of the Safe Drinking
City of Flint, Michigan; Michigan	:	Water Act, 42 U.S.C. § 300i
Department of Environmental	:	
Quality; and the State of Michigan,	:	EMERGENCY
	:	ADMINISTRATIVE ORDER
Respondents.	:	

I. INTRODUCTION

1. The Safe Drinking Water Act ("SDWA" or "Act") provides the U.S. Environmental Protection Agency ("EPA" or "Agency") with the authority to order actions when an imminent and substantial endangerment exists and the actions taken by the state and/or local authorities are inadequate to protect public health. EPA has determined that the City of Flint's and the State of Michigan's responses to the drinking water crisis in Flint have been inadequate to protect public health and that these failures continue. As a result, EPA is issuing this SDWA Emergency Order ("Order") to make sure that the necessary actions to protect public health happen immediately. The Order requires that necessary information be provided promptly to the public in a clear and transparent way to assure that accurate, reliable, and trustworthy information is available to inform the public and decisions about next steps. In addition to the issuance of this Order, EPA will promptly begin sampling and analysis of lead levels in tap water in the City of Flint's public water system ("PWS"). EPA will publish these sampling results on its website to provide the public with transparency into the process to abate the public health emergency in the City of

Flint. In the coming weeks, EPA may take additional actions under the SDWA to address the situation in the City of Flint.

## II. STATUTORY AUTHORITY

2. This Order is issued under the authority vested in the Administrator of the EPA by Section 1431 of the SDWA, 42 U.S.C. § 300i. This Order is issued for the purpose of protecting the health of persons who are supplied drinking water by a PWS with conditions that may present an imminent and substantial endangerment to human health.

## III. FINDINGS OF FACT

3. The City of Flint, Michigan ("City") owns and operates a PWS that provides piped drinking water for human consumption to its nearly 100,000 citizens.
4. From December 2011 through April 2015, an emergency manager was appointed by the State of Michigan ("State") under Public Act 436 to oversee the management of the City during its financial crisis. During that time, the City became a partner with the Karegnondi Water Authority ("KWA") and decided to no longer purchase treated drinking water from the Detroit Water and Sewerage Department ("Detroit").
5. The Michigan Department of Environmental Quality ("MDEQ") has primary responsibility for the implementation and enforcement of the public water system program in Michigan.
6. Before April 2014, the City purchased finished drinking water from Detroit.
7. On or around April 25, 2014, the City ceased purchasing treated drinking water from Detroit and began drawing water from the Flint River as its source water.

8. Between July and December 2014, the City conducted the first of two rounds of six month lead sampling under the Lead and Copper Rule ("LCR"), 40 C.F.R. § 141.80 *et seq.*
9. The City conducted the second of two rounds of six month lead sampling under the LCR between January and June 2015. These rounds of sampling showed that the levels of lead in the City water supply were rapidly rising.
10. On or about April 24, 2015, MDEQ notified EPA that the City did not have corrosion control treatment in place at the Flint Water Treatment Plant.
11. During May and June, 2015, EPA Region 5 staff at all levels expressed concern to MDEQ and the City about increasing concentrations of lead in Flint drinking water and conveyed its concern about lack of corrosion control and recommended that the expertise of EPA's Office of Research and Development should be used to avoid further water quality problems moving forward.
12. On July 21, 2015, EPA Region 5 discussed with MDEQ the City's lead in drinking water issues and implementation of the LCR and MDEQ agreed to require corrosion control as soon as possible.
13. On August 17, 2015, MDEQ sent a letter to the City recommending the City implement corrosion control treatment as soon as possible, but no later than January 1, 2016, and to fully optimize its treatment within six months.
14. On August 31, 2015, EPA Region 5 had a call with MDEQ to discuss outreach to citizens to reduce exposures to high lead levels in Flint drinking water and reiterate EPA's offer of technical assistance in implementing corrosion control treatment.

15. On September 3, 2015, Flint Mayor Dayne Walling announced that the City will implement corrosion control treatment and invited EPA corrosion control experts to join the Flint Technical Advisory Committee ("Flint TAC").
16. On September 27, 2015, EPA Region 5 Administrator Susan Hedman called MDEQ Director Dan Wyant to discuss the need for expedited implementation of corrosion control treatment, the importance of following appropriate testing protocols, urged MDEQ to enlist Michigan Department of Health and Human Services' involvement and discussed options to provide bottled water/premixed formula/filters until corrosion control is optimized.
17. On October 7, 2015, the Flint TAC met about the City's corrosion control and treatment. The Flint TAC recommended returning to Detroit water as the best course of action for the City.
18. On October 16, 2015, EPA established the Flint Safe Drinking Water Task Force ("EPA Flint Task Force") to provide the Agency's technical expertise through regular dialogue with designated officials from MDEQ and the City.
19. On or around October 16, 2015, the City switched back to purchasing finished water from Detroit, now called the Great Lakes Water Authority.
20. On November 25, 2015, the EPA Flint Task Force requested information that would allow EPA to determine the progress being made on corrosion control in the City; this information has not been received by EPA. This information includes water quality parameter measurements (pH, total alkalinity, orthophosphate, chloride, turbidity, iron, calcium, temperature, conductivity) in the distribution system. The EPA Flint Task Force has also made subsequent requests and recommendations.

<http://www.epa.gov/mi/flint-drinking-water-documents> The City is required by its MDEQ permit to monitor for these parameters at 25 sites quarterly and at 10 of these sites weekly. Because the City has not provided the information requested by the EPA Flint Task Force EPA does not have the information that would provide any assurance that contamination in the City's water system has been controlled.

21. On or around December 9, 2015, the City began feeding additional orthophosphate at the Flint Water Treatment Plant to begin optimizing corrosion control treatment. Notwithstanding the orthophosphate addition, high levels of lead and other contaminants are presumed to persist in the City's water system until LCR optimization process, utilizing sampling and monitoring requirements, have confirmed lead levels have been reduced.
22. On December 14, 2015 the City declared an emergency.
23. On January 14, 2016, the Governor of the State requested a declaration of major disaster and emergency and requested federal aid.
24. On January 16, 2016, the President of the United States declared a federal emergency in the City.
25. The presence of lead in the City water supply is principally due to the lack of corrosion control treatment after the City's switch to the Flint River as a source in April 2014. The river's water was corrosive and removed protective coatings in the system. This allowed lead to leach into the drinking water, which can continue until the system's treatment is optimized.
26. Lead occurs in drinking water from two sources: lead in raw water supplies and corrosion of plumbing materials in the water distribution system (i.e., corrosion

byproducts). Most lead contamination is from corrosion byproducts. The amount of lead in drinking water attributable to corrosion byproducts depends on a number of factors, including the amount and age of lead bearing materials susceptible to corrosion, how long the water is in contact with the lead containing surfaces, and how corrosive the water in the system is toward these materials. *Final Rule: Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper*, 56 *Fed. Reg.* 26460, 26463 (June 7, 1991).

27. EPA has set the Maximum Contaminant Level Goal ("MCLG") at zero for lead because (1) there is no clear threshold for some non-carcinogenic lead health effects, (2) a substantial portion of the sensitive population already exceeds acceptable blood lead levels, and (3) lead is a probable carcinogen. 56 *Fed. Reg.* at 26467. Pregnant women, unborn children, and children under the age of six are particularly sensitive to lead exposure.
28. The concentration of lead in whole blood has been the most widely used index of total lead exposure. Lead exposure across a broad range of blood lead levels has been associated with a spectrum of patho-physiological effects, including interference with heme synthesis necessary in the formation of red blood cells, anemia, kidney damage, impaired reproductive function, interference with vitamin D metabolism, impaired cognitive performance (as measured by IQ tests, performance in school, and other means), delayed neurological physical development, and elevation in blood pressure. 56 *Fed. Reg.* 26467-68.
29. EPA finds that consumption of lead in water contributes to increase in blood lead levels. The Centers for Disease Control and Prevention uses a reference level of 5

micrograms per deciliter to identify children with elevated blood lead levels. This new level is based on the U.S. population of children ages 1 – 5 years who are in the highest 2.5% of children when tested for lead in their blood.

[http://www.cdc.gov/nceh/lead/acclpp/blood\\_lead\\_levels.htm](http://www.cdc.gov/nceh/lead/acclpp/blood_lead_levels.htm)

30. Under the LCR, the “action level” for lead is the concentration of lead at which corrective action is required. 40 C.F.R. § 141.2.
31. EPA’s LCR includes requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples collected at consumers’ taps. The action level for lead is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during the monitoring period conducted in accordance with 40 C.F.R. § 141.86 is greater than 0.015mg/L (i.e., if the “90<sup>th</sup> percentile” is greater than 0.015mg/L). 40 C.F.R. § 141.80(c). When a large system exceeds this action level, the LCR requires the system to: 1) implement public education requirements; 2) implement all applicable source water treatment requirements specified by the primacy agency under 40 C.F.R. § 141.83; and (3) if the system is exceeding the action level after implementation of all applicable corrosion control and source water treatment requirements, then the system must replace lead service lines in accordance with 40 C.F.R. § 141.84.
32. All large systems (over 50,000 persons) are required to either complete corrosion control treatment steps in 40 C.F.R. § 141.91(d) or be deemed to have optimized corrosion control treatment under 40 C.F.R. § 141.81(b)(2) or (b)(3).

33. Based on the foregoing, EPA finds that water provided by the City to residents poses an imminent and substantial endangerment to the health of those persons. Those persons' health is substantially endangered by their ingestion of lead in waters that persons legitimately assume are safe for human consumption. This imminent and substantial endangerment will continue unless preventive actions are taken.
34. The City, MDEQ and the State have failed to take adequate measures to protect public health. Although some progress has been made in addressing the drinking water crisis in the City, there continue to be delays in responding to critical EPA recommendations and in implementing the actions necessary to reduce and minimize the presence of lead and other contaminants in the water supply both now and in the near future. The Respondents have failed and continue to fail to provide the information necessary for EPA, the EPA Flint Task Force and the City's PWS customers to fully understand and respond promptly and adequately to the current deficiencies. EPA remains concerned that the City lacks the professional expertise and resources needed to carry out the recommended actions and to safely manage the City's PWS.
35. In accordance with SDWA Section 1431(a), 42 U.S.C. § 300i(a), to the extent practicable EPA has consulted with state and local authorities regarding the information on which this EPA action is based.
36. This Order and the requirements set forth herein are necessary to ensure adequate protection of public health in the City.

37. As a result of the emergency, EPA will promptly begin sampling and analysis of lead levels and other contaminants in the City to assure that all regulatory authorities and the public have accurate and reliable information.
38. EPA will make its LCR sampling results available to the public on the Agency's website.

#### IV. CONCLUSIONS OF LAW

39. Section 1431 (a), 42 U.S.C. § 300i(a), specifies that the EPA Administrator, upon receipt of information that a contaminant which is present in or likely to enter a public water system that may present an imminent and substantial endangerment to the health of persons, and that State and local authorities have not acted to protect the health of such persons, may take such actions as she may deem necessary in order to protect the health of such persons.
40. The City owns and operates a "public water system" within the meaning of SDWA Section 1401.
41. MDEQ is an instrumentality of the State.
42. The City, State and MDEQ are "persons" as defined in SDWA Section 1401(c)(12).
43. Respondents' cessation of purchased water from Detroit and switch to the Flint River as its source water triggered a cascade of events that directly resulted in the contribution of lead and other "contaminants" that are within the meaning of SDWA Sections 1401(c)(6) and 1431 of the Act.
44. The contaminants introduced by Respondents are present in or likely to enter a PWS.
45. Based upon the information and evidence, EPA determines that Respondents' actions that resulted in the introduction of contaminants, which entered a public water system

and have been consumed and may continue to be consumed by those served by the public water system, present an imminent and substantial endangerment to the health of persons.

46. The lead and other contaminants will remain present in the PWS and will continue to present an imminent and substantial endangerment to the health of persons until the underlying problems with the corrosion control treatment and fundamental deficiencies in the operation of the PWS are corrected and sampling results confirm the lead and other contaminants are adequately treated.
47. Respondents have failed to take adequate measures to protect public health.
48. The EPA has consulted with the State and local authorities, to the extent practicable, to confirm the correctness of the information upon which this ORDER is based and to ascertain the actions which such authorities are or will be taking. All requisite conditions have been satisfied for the EPA action under SDWA Section 1431(a)(1), 42 U.S.C. § 300i(a)(1).
49. The EPA finds that there is an imminent and substantial endangerment to the people drinking water from the public water system of the City of Flint and that the actions taken by the State and/or the City are inadequate to protect public health. The actions required by this ORDER are necessary to protect the health of persons who are currently consuming or who may consume or use water from the City's PWS.

#### V. ORDER

Based on the foregoing Findings and Conclusions, and pursuant to Section 1431 of the Act, 42 U.S.C. 300i,

IT IS ORDERED:

### **Intent to Comply**

50. Within one day of the effective date of this Order, Respondents shall notify EPA in writing of their intention to comply with the terms of this Order. For the purposes of this Order, "day" shall mean calendar day.

### **Reporting Requirements**

51. Within five days of the effective date of this Order, the State shall create, and thereafter maintain, a publicly available website. Respondents must post on this website all reports, sampling results, plans, weekly status reports on the progress of all requirements and all other documentation required under this Order. The Respondents shall not publish to this website any personally identifiable information.

### **Response to EPA Flint Task Force Recommendations, Requests for Information and Sampling Activities**

52. The Respondents shall within 10 days of the effective date of this Order respond in writing, in accordance with Paragraph 51, to all of the EPA Flint Task Force's requests and recommendations made on November 25, 2015 and subsequent dates. The response shall include all actions Respondents have taken and intend to take in response to those requests and recommendations. The EPA Flint Task Force's requests and recommendations are publicly available at <http://www.epa.gov/mi/flint-drinking-water-documents>.
53. Within 10 days of the effective date of the Order the Respondents shall provide the following information in accordance with Paragraph 51:
- a. Water quality parameter measurements (pH, total alkalinity, orthophosphate, chloride, turbidity, iron, calcium, temperature, conductivity) in the distribution

system. The City is required by the MDEQ permit to monitor for these parameters at 25 sites quarterly and at 10 of these sites weekly;

- b. All lead in water testing results for the City since January 2013, including those not used for LCR compliance; and
- c. Identification of areas (e.g., zip codes, neighborhoods) in the City with elevated blood lead levels.

54. Within 10 days of the effective date of the Order, the Respondents shall provide, without publicly disclosing any personally identifiable information, the following directly to the EPA in accordance with Paragraph 66:

- a. Existing inventory of homes with lead service lines in Excel or a similar format;
- b. Addresses of homes that have had water service interruptions or street disturbances (e.g., water main breaks, road/sidewalk construction, etc.) within the last year; and
- c. Addresses of currently unoccupied homes.

55. Respondents shall cooperate with EPA as the Agency conducts LCR sampling and other diagnostic activities in the City.

#### **Treatment and Source Water**

56. To ensure that treated water meets finished water quality goals and is consistently maintained throughout the distribution system, that existing and potential plant operational and mechanical start-up issues are identified and addressed, and that water plant operations staff are proficient in treating the existing and new source water, Respondents shall comply with Paragraphs 57, 58 and 59.

57. Respondents shall maintain chlorine residual in the distribution system in accordance with SDWA and the National Primary Drinking Water Regulations ("NPDWRs").

58. The City shall continue to add corrosion inhibitors (e.g., orthophosphate booster) at levels sufficient to re-optimize corrosion control in the distribution system.

59. To address optimization of corrosion control for the system as operated with its current water source, within 14 days of the effective date of this Order the

Respondents shall submit to MDEQ and post in accordance with Paragraph 51:

- a. Submit a plan and schedule to the MDEQ to review and revise as needed designated optimal corrosion control and water quality parameters as well as monitoring plans for LCR compliance and all other monitoring plans developed to ensure that the treatment plant is consistently and reliably meeting plant performance criteria and all other NPDWRs;
- b. Submit a sampling plan for daily monitoring of water quality parameters in the distribution system with results compiled in a weekly report in an approved format; and
- c. Submit an operations plan for the corrosion control equipment (storage day tanks, feed/injection systems), with results compiled in a weekly format, that includes monitoring, calibration, verification (pump catch, etc.) as well as daily monitoring of finished water corrosion control parameters. Results shall be submitted and posted weekly.

60. Respondents shall not effectuate a transition to a new water source for the City's PWS (e.g., from KWA) until such time as they have submitted a written plan, developed through consultation with appropriate experts and after providing adequate

advanced notice and an opportunity for public comment, to MDEQ and in accordance with Paragraph 51, demonstrating that the City has the technical, managerial and financial capacity to operate its PWS in compliance with SDWA and the NPDWRs and that necessary infrastructure upgrades, analysis, and testing have been completed to ensure a safe transition. Such plans shall include, but not be limited to, provisions addressing:

- a. The impacts on corrosion control for any new source water and an operations plan for periodic use of existing sources of water;
- b. Completion of corrosion control study for any new sources;
- c. Implementation of a "performance period" that allows for the demonstration of the adequacy of treatment of the new water source to meet all NPDWRs before it can be distributed to residents; and
- d. The City's technical, managerial and financial capacity to meet SDWA's applicable requirements, including the NPDWRs, during and after the transition to any new water source.

**Treatment and Distribution System Management**

- 61. Within 15 days of the effective date of this Order, the City must demonstrate, and the MDEQ and State must ensure, the City has the necessary, capable and qualified personnel required to perform the duties and obligations required to ensure the PWS complies with the SDWA and the NPDWRs.
- 62. To ensure the City's PWS is adequately operated to meet SDWA and all NPDWRs, within 30 days of the effective date of this Order, the Respondents shall submit the steps they will take to develop and implement a distribution system water quality

optimization plan to MDEQ and in accordance with Paragraph 51, to evaluate and improve its programs that affect distribution system water quality, including: evaluating conditions within the distribution system; creating better documentation; and enhancing communication between the various utility functions that impact distribution system water quality. The MDEQ must ensure that this plan is adequate to ensure SDWA compliance and the State must ensure it is executed.

**Independent Advisory Panel ("IAP")**

63. Within seven days of the effective date of this Order, the MDEQ and State, with the City's input and concurrence, shall engage a panel of independent, nationally-recognized experts on drinking water treatment, sampling, distribution system operation, and members of the affected community to advise and make public recommendations to the City on steps needed to mitigate the imminent and substantial endangerment to the health of persons and general operation of the City's PWS to ensure compliance with SDWA and the NPDWRs.

64. The charge to the IAP will include the following:

- a. Make recommendations to the Respondents, and for consideration by the EPA, to ensure the safe operation of the City's PWS.
- b. Make other recommendations to the Respondents, and for consideration by the EPA, to better serve the community served by the City's PWS.

**VI. PARTIES BOUND**

65. The provisions of this Order shall apply to and bind Respondents and their officers, employees, agents, successors and assigns.

**VII. GENERAL PROVISIONS**

66. All submittals and inquiries pursuant to this Order shall be addressed to:

Mark Pollins, Director  
Water Enforcement Division  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency  
William Jefferson Clinton South Building  
1200 Pennsylvania Avenue NW  
Room 3104  
Washington, DC 20460  
pollins.mark@epa.gov

67. All plans, reports, notices or other documents submitted by Respondents under this Order shall be accompanied by the following statement signed by a responsible official.

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

68. Record preservation. Respondents shall retain, during the pendency of this Order, and for a minimum of six years after its termination, all data, records and documents in its possession or control, or which comes into its possession or the possession of its divisions, officers, directors, employees, agents, contractors, successors, and assigns, which relate in any way to this Order. After the above mentioned six year period, Respondents shall provide written notification to EPA 60 calendar days before the destruction of any data, records, or documents that relate in any way to this Order or its implementation. At the EPA's request, Respondents shall then make records available to the EPA for inspection and/or retention, or shall provide copies of any such records to EPA before discarding.

69. Within 10 days of the effective date of this Order, or at the time of retaining any agent, consultant, or contractor for the purpose of carrying out terms of this Order, Respondents shall enter into an agreement with any such agents, consultants, or contractors whereby such agents, consultants, or contractors will be required to provide Respondents a copy of all documents produced under this Order.
70. EPA retains all of its information gathering and inspections authorities and rights, including the right to bring enforcement actions related thereto, under SDWA and any other applicable statutes or regulations.
71. Pursuant to SDWA Section 1431(b), 42 U.S.C. § 300i, in the event Respondents violate, fail or refuse to comply with any of the terms or provisions of this Order, EPA may commence a civil action in U.S. District Court to require compliance with this Order and to assess a civil penalty of up to \$21,500 per day of violation under SDWA, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, amended by the Debt Collection Improvement Act of 1996, and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.
72. Compliance with the terms and conditions of this Order shall not in any way be construed to relieve Respondents of their obligations to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a determination of any issue related to any federal, state, or local permit. Compliance with this Order shall not be a defense to any actions subsequently commenced for any violation of federal laws and regulations administered by EPA, and it is the responsibility of Respondents to comply with such laws and regulations.

73. EPA may modify this Order to ensure protection of human health and the environment. Such modification shall be in writing and shall be incorporated into this Order.

74. This Order shall constitute final agency action by EPA.

VIII. EFFECTIVE DATE

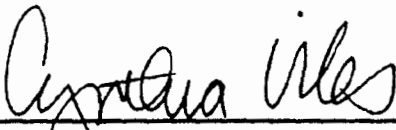
75. Under SDWA Section 1431, 42 U.S.C. § 300i, this Order shall be effective immediately upon Respondents' receipt of this Order. If modifications are made by the EPA to this Order, such modifications will be effective on the date received by Respondents. This Order shall remain in effect until the provisions identified in the Order have been met in accordance with written EPA approval.

IX. TERMINATION

76. The provisions of this Order shall be deemed satisfied upon Respondents' receipt of written notice from the EPA that Respondents have demonstrated, to the satisfaction of the EPA, that the terms of this Order, including any additional tasks determined by EPA to be required under this Order or any continuing obligation or promises, have been satisfactorily completed.

1/21/16

Date

  
\_\_\_\_\_

CYNTHIA GILES  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency  
William Jefferson Clinton South Building  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20460

FRED UPTON, MICHIGAN  
CHAIRMAN

16-000-3738

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-2927  
Minority (202) 225-3641

January 15, 2016

The Honorable Gina McCarthy  
Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator McCarthy:

We are extremely concerned about the drinking water crisis in Flint, Michigan.

Over the last several months, this issue has received significant public attention. According to press reports, residents began complaining that their drinking water looked dirty, tasted bad, and was causing rashes after the city switched from water provided by the Detroit water system to water treated by Flint and sourced from the Flint River in April 2014 to save money.<sup>1</sup> The media have also reported that the people of Flint have consistently faced the reality of tap water that exceeded maximum allowable contamination levels of e.g., e. coli, other biological pathogens, and chemical toxicants such as trihalomethanes. The reports suggest these contaminants could cause liver, kidney or central nervous system problems, and an increased risk of cancer.<sup>2</sup> These accounts also detail studies which separately show that the proportion of Flint area "infants and children with above-average levels of lead in their blood has nearly doubled since the city switched in 2014 from purchasing Detroit's treated water to treating water drawn from the Flint River."<sup>3</sup>

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<sup>1</sup> *Flint Wants Safe Water, and Someone to Answer for Its Crisis*, New York Times (Jan. 9, 2016).

<sup>2</sup> *City warns of potential health risks after Flint water tests revealed too much disinfection byproduct*, MLive (January 17, 2015).


<sup>3</sup> *In Flint, Mich., there's so much lead in children's blood that a state of emergency is declared*, Washington Post (December 15, 2015).

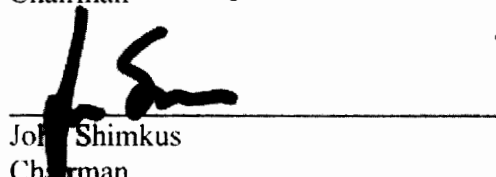
Although the city has now reverted to using treated water from Detroit, according to news reports, testing still reveals elevated lead levels in Flint's water due to corrosion damage in the pipes.<sup>4</sup> We understand, on December 15, 2015, Flint Mayor Karen Weaver declared a state of emergency for the City of Flint, declaring the situation "a manmade disaster" that caused "irreversible" damage to children.<sup>5</sup> We are also aware that, on January 5 of this year, Michigan Governor Rick Snyder declared a state of emergency for the Flint area and surrounding county, authorizing the Michigan State Police to coordinate the state's efforts, including requests for assistance from the federal government.<sup>6</sup>

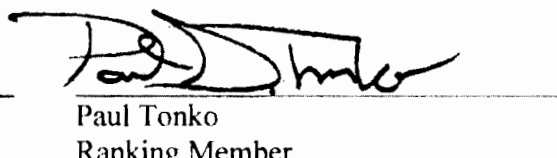
It is our understanding that the Environmental Protection Agency (EPA) has established a Safe Drinking Water Task Force to provide assistance to Flint and has announced plans to audit Michigan's Drinking Water Program.<sup>7</sup> We urgently request a briefing on these matters and on EPA's anticipated role as the situation in Flint continues to unfold. We ask that you provide this briefing by January 22, 2016. Please contact Dave McCarthy with the Committee Majority staff at (202) 225-2927 and Rick Kessler with the Committee Democratic staff at (202) 225-3641 if you have any questions.

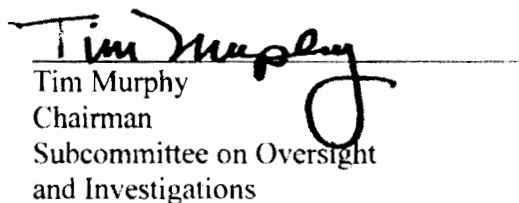
Sincerely,

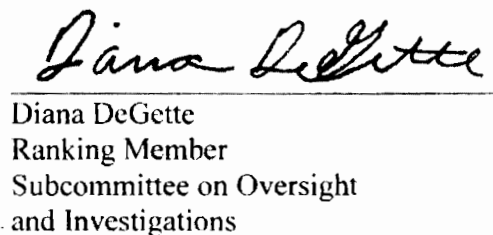
  
Fred Upton  
Chairman

  
Frank Pallone  
Ranking Member

  
John Shimkus  
Chairman  
Subcommittee on Environment  
and the Economy

  
Paul Tonko  
Ranking Member  
Subcommittee on Environment  
and the Economy

  
Tim Murphy  
Chairman  
Subcommittee on Oversight  
and Investigations

  
Diana DeGette  
Ranking Member  
Subcommittee on Oversight  
and Investigations

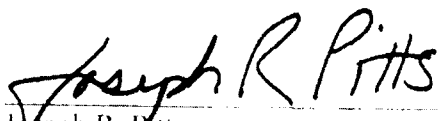
<sup>4</sup> *How tap water became toxic in Flint, Michigan*, CNN (Jan. 11, 2016).

<sup>5</sup> *Flint, Michigan. Declares State of Emergency Amid Lead in Drinking Water Scare*, NBC News (Dec. 15, 2015).

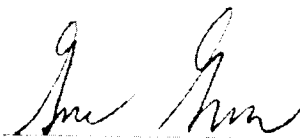
<sup>6</sup> *Governor declares state of emergency over lead in Flint water*, MLive (Jan. 5, 2016).

<sup>7</sup> Environmental Protection Agency, *Flint Drinking Water Documents* (accessed Jan. 12, 2015) (online at [www.epa.gov/mi/flint-drinking-water-documents](http://www.epa.gov/mi/flint-drinking-water-documents)).

Letter to The Honorable Gina McCarthy  
Page 3

A handwritten signature in black ink that reads "Joseph R. Pitts". The signature is written in a cursive style with a large, prominent "P".

Joseph R. Pitts  
Chairman  
Subcommittee on Health

A handwritten signature in black ink that reads "Gene Green". The signature is written in a cursive style with a large, prominent "G".

Gene Green  
Ranking Member  
Subcommittee on Health

16-000-4004

# United States Senate

WASHINGTON, DC 20510

February 4, 2016

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Ms. McCarthy,

We are writing to you today regarding the ongoing water quality crisis in Flint, Michigan. As you are aware, residents in the City of Flint have for some time now been exposed to hazardous amounts of lead as a result of a tainted water supply. The State of Michigan has received extensive scrutiny on this matter for their failure to notify the public of and take action to rectify this health hazard, despite having known of its existence for some time.

It has come to our attention that the Environmental Protection Agency (EPA), under your leadership, also had prior knowledge of the contaminated drinking water and refused to take action in notifying the public. In fact, EPA circulated a germane in-house memorandum on June 24, 2015.<sup>[1]</sup> The stated mission of the EPA is to "protect human health and the environment",<sup>[2]</sup> yet the agency's failure to notify Flint residents that their drinking water was unsafe is a clear deviation from that mission.

For all intents and purposes, you have placed all accountability for your agency's failures on your Region 5 Administrator, a role formerly held by Susan Hedman. By accepting her immediate resignation and subsequently calling for an Inspector General evaluation, you are strongly implying you had no knowledge of the water contamination. On January 18, 2016 when asked about the water crisis in Flint, Michigan you said, "EPA did its job but clearly the outcome was not what anyone would have wanted." As you have alluded to before, leadership starts with you. It certainly appears that the EPA did not take action, or at a minimum, alert citizens about the lead contamination.

In light of this and to prevent similar hazardous mistakes in the future, we are formally requesting that you provide our offices with all correspondence and memorandum, written and digital, pertaining to the water crisis in Flint, Michigan between:

---

<sup>[1]</sup> <http://www.aclumich.org/sites/default/files/Original%20EPA%20memo.%20062514.pdf>

<sup>[2]</sup> <http://www.epa.gov/aboutepa/our-mission-and-what-we-do>

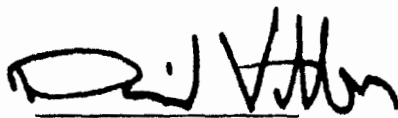
1. The offices of Administrator McCarthy and former EPA Region 5 Administrator Hedman that pertains to the water crisis in Flint, Michigan.
2. The offices of Administrator McCarthy and the Michigan Department of Environmental Quality.
3. The offices of Administrator McCarthy and the City of Flint Michigan.

Additionally, please provide answers to, and all available supporting documentation, for the following questions:

1. When were you first briefed on the June 24, 2015 memo?
2. Who conducted the briefing? Did Regional Administrator Hedman participate?
3. When did Regional Administrator Hedman first discuss the Flint situation with you and/or senior EPA staff?
4. When did the EPA Office of Water first make you aware of the situation in Flint?

Please comply with this request no later than March 3, 2015.

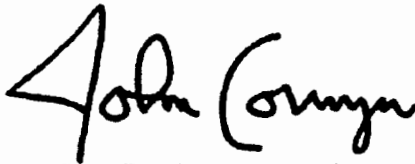
Sincerely,



David Vitter  
United States Senate



James M. Inhofe  
United States Senate



John Cornyn  
United States Senate

15-000-7073

DANIEL T. KILDEE  
5TH DISTRICT, MICHIGAN

COMMITTEE ON  
FINANCIAL SERVICES

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SUBCOMMITTEE ON  
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COMMUNICATIONS COMMITTEE



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Washington, DC 20515

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(202) 225-6393 (FAX)

DISTRICT OFFICE

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FLINT, MI 48502  
(810) 238-8627  
(810) 238-8658 (FAX)

March 26, 2015

Ms. Gina McCarthy  
Administrator, Environmental Protection Agency  
1101 A  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator McCarthy:

My office has reached out to both the Office of Congressional and Intergovernmental Relations at the Environmental Protection Agency (EPA) and the Congressional Research Service (CRS) to determine if there are any statutory limitations on states to forgive the principal on loans made through the Safe Drinking Water State Revolving Fund (SDWSRF) program. After talking to both of these offices, there seems to be a difference in legal opinion between the two interpretations as to whether forgiveness of principal is statutorily allowed, and I am requesting further clarification.

The City of Flint, Mich., located in my district, continues to endure prolonged and severe financial stress due to the loss of thousands of manufacturing jobs, resulting in population loss and an erosion of its tax base. In an effort to improve the city's financial stability, Flint decided to end its 50-plus-year affiliation with the City of Detroit Water and Sewage Department in April of 2013. Instead, Flint would become a partner in the Karegnondi Water Authority (KWA) to bring raw water from Lake Huron to the city.

The water contract between the City of Detroit Water and Sewage Department and Flint was terminated in May of 2014. The KWA, however, will not be able to provide water to the city until its pipeline from Flint to Lake Huron is completed at the end of 2016. To fill the gap in service until the KWA is completed, Flint has turned to the Flint River as its current source for raw water. The Flint River has proven to have an inconsistent quality because of high levels of organic matter. Flint water officials have used high levels of trihalomethanes to treat the occasional elevated levels of organic matter in the water. On December 16, 2014, the Michigan Department of Environmental Quality cited the city for being in violation of water standards determined by the Safe Drinking Water Act (SDWA) due to high levels of trihalomethanes. In accordance with the SDWA, a cautionary notice about the citation was subsequently sent to residents.

Since its citation, Flint has engaged local and state leaders to find a solution for the poor quality of the water. On February 3, 2015, the state gave the city close to \$2 million to hire consultants to assess the condition and find leaks in the water infrastructure system. While this funding is a step in the right direction, it is not nearly enough to significantly improve the water quality.

This background on Flint's water situation is to point out that the SDWA is intended to improve drinking water in America's cities, such as Flint, by creating water quality standards and funding the SDWSRF to invest in water infrastructure. In addition to the high levels of trihalomethanes, the poor condition of water infrastructure in Flint, regardless of the water's source, contributes to discolored and poor tasting water. Furthermore, Flint currently suffers an over 35 percent loss ratio of water between the treatment plant and the end user. In the past, Flint has benefitted from the SDWSRF and currently has close to \$22 million in outstanding loans from it that the city has used to repair the water system. The financial stress of making payments on these loans, however, has prevented the city from making the necessary ongoing investments to its water infrastructure.

To decrease the burden of these loans, on January 18, 2015, Flint requested that the state of Michigan, as the responsible party in appropriating funds from the SDWSRF to local governments, forgive part of the principal. The state responded that forgiving the principal is not an option as the state does not have the authority to do so.

In response to the state's reply, on February 10, 2015, my staff reached out to the Office of Congressional and Intergovernmental Relations at the EPA to ask if they were aware of any statutory language that prevents principal forgiveness of loans made under the SDWSRF. On February 25, 2015, the EPA responded that they "could find ... no provision that would allow a state to [forgive an existing loan made from a Safe Drinking Water Act state revolving fund]."

On February 23, 2015, my staff also reached out to the CRS for their legal opinion on this matter. Although they could not find any precedent for doing so, the CRS did find two instances in statute that, in their opinion, allows states to forgive the principal on loans made through the SDWSRF.

First, SDWA sec. 1452(d)(1), 42 USC 300j-12(d)(1), states – "Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) of this section to a disadvantaged community ... , the State may provide additional subsidization (including forgiveness of principal)."

Second, the Consolidated and Further Continuing Appropriations Act, 2015, Pub. Law 113-235, states on page 296 – "Provided further, [t]hat not less than 20 percent but not more than 30 percent of the funds made available under this title to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide additional subsidy to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these), and shall be so used by the State only where such funds are provided as initial financing for an eligible recipient or to buy, refinance, or restructure the debt obligations of eligible recipients only where such debt was incurred on or after the date of enactment of this Act; ...."

The difference in opinion between EPA and CRS has created ambiguity for the affected parties. The ability of states to forgive portions of the principal on loans made through the SDWSRF could have a significant impact on the financial state of Flint and many other distressed municipalities across the county. I would appreciate clarification from you on what, according to EPA's interpretation of the law, statutorily prevents states from forgiving the principal on loans made under the SDWSRF.

Due to critical nature of the water quality in Flint and the impact that loan forgiveness could have on improving the quality of the water, I ask for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Kildee", with a stylized, cursive script.

Dan Kildee  
MEMBER OF CONGRESS

cc:

Cathy Davis, EPA  
Eileen Deamer, EPA  
Robert Meltz, CRS



United States Environmental Protection Agency  
Regional Administrator  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

**APR 15 2015**

The Honorable Daniel Kildee  
House of Representatives  
Washington D.C. 20515

Dear Congressman Kildee:

Thank you for your March 26, 2015 letter seeking clarification as to whether the Safe Drinking Water Act and associated regulations allow the State of Michigan to forgive outstanding principal due on loans that were made to the City of Flint through the Drinking Water State Revolving Fund (DWSRF). Your letter points out the challenges that Flint is currently facing and indicates that the Congressional Research Service has identified potentially applicable legal authority that may provide a basis for loan forgiveness. Unfortunately, the provisions cited in your letter apply only to new loans. The existing loans that are the focus of your inquiry are not eligible for forgiveness.

Under the Safe Drinking Water Act, as well as regulation and recent appropriations language, forgiveness of principal is termed "an additional subsidy." The concept of additional subsidy is set out in Section 1452 (d) of the Act:

(1) Loan subsidy:

Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) of this section to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

(2) Total amount of subsidies:

For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

Under the corresponding regulation, 40 CFR Section 35.3525 (b):

(1) A State may provide loan subsidies (e.g., loans which include principal forgiveness, negative interest rate loans) to benefit communities meeting the State's definition of "disadvantaged" or which the State expects to become "disadvantaged" as a result of the project. Loan subsidies in the form of reduced interest rate loans that are at or above zero percent do not fall under the 30 percent allowance described in paragraph (b)(2) of this section.

(2) A State may take an amount equal to no more than 30 percent of the amount of a particular fiscal year's capitalization grant to provide loan subsidies to disadvantaged communities. If a State does not take the entire 30 percent allowance associated with a particular fiscal year's capitalization grant, it cannot reserve the authority to take the remaining balance of the allowance from future capitalization grants.

The outstanding Flint loans that are the subject of your inquiry were made in 1999, 2000, 2001 and 2003. In these years, the State had the option of providing additional subsidy when making these initial loans. To exercise this option the State would have been required to issue an intended use plan identifying the new, initial financing and to determine Flint's eligibility to receive principal forgiveness. Pursuant to 40 CFR 35.3525 (b)(2), a State may not reserve the authority to provide loan subsidies; this means a state cannot allocate any previously unallocated loan subsidy using current funds.

Since the American Recovery and Reinvestment Act of 2009, Congressional appropriations have provided additional language to further clarify the timing and use of additional subsidy – language which you reference in your letter:

Provided further, that not less than 20 percent but not more than 30 percent of the funds made available under this title to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide additional subsidy to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these), and shall be used by the State only where such funds are provided as initial financing for an eligible recipient or to buy, refinance, or restructure the debt obligations of eligible recipients *only where such debt was incurred on or after the date of enactment of this Act:...* (emphasis added).


Consolidated and Further Continuing Appropriations Act, 2015, Pub. Law 113-235

This language provides for additional subsidy (including principal forgiveness) only for debt "incurred on or after the date of enactment of this Act." As the DWSRF loans were provided to Flint prior to the date that this language first appeared in the American Recovery and Reinvestment Act and in subsequent Appropriations Acts, the State does not have authority to provide additional subsidy for those loans.

Although the loans that are the subject of your inquiry are not eligible for loan forgiveness, the City of Flint may have opportunities to seek principal forgiveness in connection with new applications for State SRF funding. EPA is available to provide assistance with that process if requested to do so.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Ronna Beckmann or Denise Fortin, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Hedman', followed by a horizontal line.

Susan Hedman  
Regional Administrator

15-001-4191

DANIEL T. KILDEE  
5TH DISTRICT, MICHIGAN

COMMITTEE ON  
FINANCIAL SERVICES

SUBCOMMITTEE ON  
HOUSING AND INSURANCE

SUBCOMMITTEE ON  
MONETARY POLICY AND TRADE

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

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/REP DANKILDEE  
 @REP DANKILDEE

September 22, 2015

Secretary Sylvia Matthews Burwell  
U.S. Department of Health & Human Services  
HHS Office of the Secretary  
200 Independence Avenue, S.W.  
Washington, DC 20201

Administrator William Craig Fugate  
Federal Emergency Management Agency  
500 C Street, S.W.  
Washington, DC 20472

Administrator Gina McCarthy  
Environmental Protection Agency  
Office of the Administrator 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Director Tom Frieden  
Centers for Disease Control and Prevention  
1600 Clifton Road  
Atlanta, GA 30329

Secretary Burwell, Administrator McCarthy, Administrator Fugate and Director Frieden:

Recent developments regarding the level of lead in the water in one of the communities I represent, Flint, Mich., have raised significant concerns about the safety of its drinking water. For this reason, I am requesting immediate resources to provide safe drinking water to the residents of Flint until additional testing can be completed that confirms the water is safe, particularly for young children.

Although the city of Flint and the Michigan Department of Environmental Quality have conducted tests and taken the position that the lead level in the water is safe and below the action level, there are significant questions about the efficacy of their testing. In fact, Dr. Marc Edwards of Virginia Tech University, an established drinking water expert, conducted his own tests as part of a study that determined the water in Flint was above the lead action level.

Additionally, yesterday the Greater Flint Health Coalition, a group of health professionals in the community, released a report showing elevated blood lead levels in residents in Flint, particularly in young children. In response, the Coalition has requested that the Genesee County Health Department release a health advisory indicating that the water in Flint is unsafe to drink.

Thus, I am requesting resources from your agency to provide clean drinking water to the residents of Flint until additional testing can determine when the water will be safe to drink and a long-term solution can be implemented.

This is a serious health issue, particularly for young children, and until the water is demonstrated to be safe, immediate action must be taken to ensure Flint's residents have potable drinking water.

I look forward to working with you and thank you for your immediate attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel J. Kildee". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dan Kildee  
MEMBER OF CONGRESS

# **Pediatric Lead Exposure In Flint, Michigan: A Failure of Primary Prevention**

Mona Hanna-Attisha MD MPH FAAP

Hurley Children's Hospital

Michigan State University Department of Pediatrics and Human  
Development

# Introducing Makayla\*



- 12 month old girl (DOB 8/15/2014) presented last week for her 1 year old check up. No concerns.
- Lives with single mom and 2 older siblings in west side (48504). Formula from WIC; powder mixed with warm tap water.
- Physical exam and development are normal. Makayla receives her 1 year old vaccines and routine lead and hemoglobin screening.
- *A couple days later, lead level comes back as 6 ug/dL.*

\*Hypothetical scenario

# **Blood lead level of 6 ug/dL....**

- Blood lead levels (BLL) above 5 ug/dL are considered elevated blood lead levels (EBL)
- Just a few years ago (2012), 10 ug/dL was cutoff
- Increasing evidence shows NO safe blood lead level
- Disproportionately impacts low income, minority children
- Primary prevention is most important

# Primary Prevention

- “Because no measurable level of blood lead is known to be without deleterious effects, and because once engendered, the effects appear to be irreversible in the absence of any other interventions, public health, environmental and housing policies should encourage PREVENTION of all exposure to lead.”

“Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention.” 2012  
CDC Advisory Committee on Childhood Lead Poisoning Prevention.

# What will happen to Makayla?

- Vast evidence supports increased likelihood of:
  - Decrease in IQ
    - An increase in BLL from 1 to 4 ug/dL, drops mean IQ -3.7 points
  - Small change in mean IQ, shifts entire population IQ distribution
    - Reduces high achievers IQs (>130) and increases kids with low IQs (<70)
    - Implications for special education services, employment, incarceration, life achievement, etc

Lanphear BP et al., Low-level environmental lead exposure and children's intellectual function: an international pooled analysis. *Environ Health Perspect*, 2005. 113:894-9.

Fewtrell LJ, Pruss-Ustun A, Landrigan P, and Ayuso-Mateos JL, Estimating the global burden of disease of mild mental retardation and cardiovascular diseases from environmental lead exposure. *Environmental Research*, 2004. 94:120-33.

# Behavioral Burden

- Increased likelihood of :
  - ADHD behaviors
  - Delinquent behaviors and arrests
  - Total arrests and increased rates of arrests involving violent offenses
  - Other health effects: hematologic, cardiovascular, immunologic, endocrine, etc

Wright, JP, KN Dietrich, MD Ris, et al. 2008. Association of prenatal and childhood blood lead concentrations with criminal arrests in early adulthood. *PLoS Med* 5(5): e101

Chen, A, B Cai, KN Dietrich, et al. 2007. Lead exposure, IQ, and behavior in urban 5-7 year-olds: Does lead affect behavior only by lowering IQ? *Pediatrics* 119(3): e650-e658.

Needleman, HL, C McFarland, RB Ness, et al. 2002. Bone lead levels in adjudicated delinquents: A case control study. *Neurotoxicology and Teratology* 24(6):711-717.

# The Cost

- “For childhood lead poisoning, \$5.9 million in medical care costs, as well as an additional \$50.9 billion (sensitivity analysis: \$44.8–\$60.6 billion) in lost economic productivity resulting from reduced cognitive potential from preventable childhood lead exposure.”
- “The present value of Michigan’s economic losses attributable to lead exposure in the 2009 cohort of 5 year-olds ranges from \$3.19 (using U.S. blood lead levels) to \$4.85 billion (using Michigan blood lead levels) per year in loss of future lifetime earnings.”

Leonardo Trasande and Yinghua Liu. Reducing The Staggering Costs Of Environmental Disease In Children, Estimated At \$76.6 Billion In 2008. *Health Affairs*, 30, no.5 (2011):863-870

The Price of Pollution: Cost Estimates of Environment-Related Childhood Diseases in Michigan. 2010 Report by Michigan Network of Children’s Environmental Health

# Lead in Water

- Increasing as source of lead, because of success in controlling other sources.
- Increasing due to aging water infrastructures, change in water sources, disinfectant uses, etc
- Disproportionally impacts developmentally-vulnerable formula-fed infants and pregnant mothers
  - For about 25% of infants drinking formula made from tap water at 10 ppb, blood lead would rise above the CDC level of concern of 5 micrograms/deciliter (or ug/dL).
  - Increase in fetal death and reduced birth weights

Triantafyllidou, S., Gallagher, D. and Edwards, M. Assessing risk with increasingly stringent public health goals: the case of water lead and blood lead in children. *Journal of Water and Health*. doi: 10.2166/wh.2013.067 58-68 (2014).

Edwards, M. Fetal Death and Reduced Birth Rates Associated with Exposure to Lead-Contaminated Drinking Water. *Env. Sci. and Tech.* 2013 DOI: 10.1021/es4034952

# Preliminary Results

(results removed)

# Conclusions from BLL analysis

- % of children with EBL in Flint has increased
  - Most striking increase in zip codes with highest water lead levels
- Results underestimate risk: infants not screened for lead and water usage unknown.
  - *Accurate exposure largely unknown since national childhood lead screening focuses on household lead exposure (paint, soil, dust) at later ages (1 and 2 yrs)*
- Results are consistent and concerning. Primary prevention has failed.

# Next Steps

- Immediately limit further exposure
  - Encourage breast feeding
  - No tap water for high risk groups: infants on formula & pregnant mothers
  - Declare health advisory: allows WIC to administer water or ready-to-feed formula and other resources (Salvation Army & United Way water supplies)
  - Distribution of lead clearing NSF-approved filters
  - Public education regarding precautions (flushing, etc)
  - Re-connect to Lake Huron water source ASAP

# And Makayla...

- Asymptomatic now
- But what will her future hold and an entire generation of Flint children?



15-001-3725

DANIEL T. KILDEE  
5TH DISTRICT, MICHIGAN

COMMITTEE ON  
FINANCIAL SERVICES

SUBCOMMITTEE ON  
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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

September 9, 2015

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Ms. Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, D.C. 20460

Mr. Dan Wyant  
Director  
Michigan Department of Environmental Quality  
P.O. Box 30473  
Lansing, MI 48909

Administrator McCarthy and Director Wyant:

The attached June 24, 2015, memorandum between two Environmental Protection Agency (EPA) employees, Miguel A. Del Toral and Thomas Poy, published recently by the American Civil Liberties Union of Michigan, suggests that there are high lead levels in the city of Flint, Mich., water transmission lines. Furthermore, this document reflects that children consuming this water had levels of lead in their blood in excess of three times what they were prior to the city of Flint switching its source water from the Detroit Water and Sewage Department (DWSD) to the Flint River.

In addition, this memorandum makes recommendations to Mr. Poy, Chief of the Ground Water and Drinking Water Branch of EPA Region 5, to do three things. First, for the EPA to work with the Michigan Department of Environmental Quality (MDEQ) to provide technical assistance to the city of Flint to deal with water quality issues. Second, it suggests the EPA review the compliance status of the city of Flint in respect to its compliance with the Lead and Copper Rule (LCR). Third, the memorandum recommends that the EPA conduct a review of the city of Flint testing procedures to ensure they are compliant with the LCR.

Regarding this memorandum and the surrounding water quality issues in the city of Flint, I have the following questions:

- Was this memorandum actually sent to Mr. Poy?

- Are the findings in the memorandum regarding the lead levels in the city of Flint water accurate?
- If there were in fact high levels of lead in the water in the city of Flint, when did the EPA and/or MDEQ plan to alert the public?
- What, if any, of the recommendations has the EPA followed from the memorandum?
- Given the demonstrated level of lead in the water in Flint, MI, is the water safe?

Regardless, I am very troubled by recent tests suggesting high levels of lead in the city of Flint's water system. As you know, on the EPA's website it says that lead above the "action level" in drinking water can cause a variety of adverse health effects, including delays in physical and mental development in babies and children.

According to the Safe Drinking Water Act, the EPA has the responsibility of enforcing water quality standards. EPA, however, has given the primary responsibility of enforcing water quality standards to the state of Michigan via MDEQ. As such, it is the responsibility of these agencies to ensure that the people of the city of Flint have safe drinking water.

Thank you and I look forward to hearing from you soon.

Sincerely,



Dan Kildee  
MEMBER OF CONGRESS

cc:

State Senator Jim Ananich  
State Representative Sheldon Neeley  
State Representative Phil Phelps  
Mayor Dayne Walling, City of Flint  
Howard Croft, City of Flint  
Susan Hedman, EPA  
Thomas Poy, EPA  
Michael Schock, EPA-ORD  
Darren Lytle, EPA-ORD  
Denise Fortin, EPA  
Liane Shekter-Smith, MDEQ  
Pat Cook, MDEQ  
Stephen Busch, MDEQ  
Brad Wurfel, MDEQ  
Marc Edwards, Virginia Tech



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

**WG-15J**

**June 24, 2015**

**MEMORANDUM**

**SUBJECT:** High Lead Levels in Flint, Michigan – Interim Report

**FROM:** Miguel A. Del Toral *WADT*  
Regulations Manager, Ground Water and Drinking Water Branch

**TO:** Thomas Poy  
Chief, Ground Water and Drinking Water Branch

The purpose of this interim report is to summarize the available information regarding activities conducted to date in response to high lead levels in drinking water reported by a resident in the City of Flint, Michigan. The final report will be submitted once additional analyses have been completed on pipe and water samples.

Following a change in the water source, the City of Flint has experienced a number of water quality issues resulting in violations of National Primary Drinking Water Regulations (NPDWR) including acute and non-acute Coliform Maximum Contaminant Level (MCL) violations and Total Trihalomethanes (TTHM) MCL violations as follows:

Acute Coliform MCL violation in August 2014  
Monthly Coliform MCL violation in August 2014  
Monthly Coliform MCL violation in September 2014  
Average TTHM MCL violation in December 2014  
Average TTHM MCL violation in June 2015

In addition, as of April 30, 2014, when the City of Flint switched from purchasing finished water from the City of Detroit to using the Flint River as their new water source, the City of Flint is no longer providing corrosion control treatment for lead and copper.

A major concern from a public health standpoint is the absence of corrosion control treatment in the City of Flint for mitigating lead and copper levels in the drinking water. Recent drinking water sample results indicate the presence of high lead results

in the drinking water, which is to be expected in a public water system that is not providing corrosion control treatment. The lack of any mitigating treatment for lead is of serious concern for residents that live in homes with lead service lines or partial lead service lines, which are common throughout the City of Flint.

In addition, following the switch to using the Flint River, the City of Flint began adding ferric chloride, a coagulant used to improve the removal of organic matter, as part of the strategy to reduce the TTHM levels. Studies have shown that an increase in the chloride-to-sulfate mass ratio in the water can adversely affect lead levels by increasing the galvanic corrosion of lead in the plumbing network.

Prior to April 30, 2014, the City of Flint purchased finished water from the City of Detroit which contained orthophosphate, a treatment chemical used to control lead and copper levels in the drinking water. When the City of Flint switched to the Flint River as their water source on April 30, 2014, the orthophosphate treatment for lead and copper control was not continued. In effect, the City of Flint stopped providing treatment used to mitigate lead and copper levels in the water. In accordance with the Lead and Copper Rule (LCR), all large systems (serving greater than 50,000 persons) are required to install and maintain corrosion control treatment for lead and copper. In the absence of any corrosion control treatment, lead levels in drinking water can be expected to increase.

The lack of mitigating treatment is especially concerning as the high lead levels will likely not be reflected in the City of Flint's compliance samples due to the sampling procedures used by the City of Flint for collecting compliance samples. The instructions from the City of Flint to residents direct the residents to 'pre-flush' the taps prior to collecting the compliance samples. A copy of the instructions provided by the City of Flint to residents will be included in the final report.

The practice of pre-flushing before collecting compliance samples has been shown to result in the minimization of lead capture and significant underestimation of lead levels in the drinking water. Although this practice is not specifically prohibited by the LCR, it negates the intent of the rule to collect compliance samples under 'worst-case' conditions, which is necessary for statistical validity given the small number of samples collected for lead and copper under the LCR. This is a serious concern as the compliance sampling results which are reported by the City of Flint to residents could provide a false sense of security to the residents of Flint regarding lead levels in the water and may result in residents not taking necessary precautions to protect their families from lead in the drinking water. Our concern regarding the inclusion of 'pre-flushing' in sampling instructions used by public water systems in Michigan has been raised with the Michigan Department of Environmental Quality (MDEQ). The MDEQ has indicated that this practice is not prohibited by the LCR and continues to retain the 'pre-flushing' recommendation in their lead compliance sampling guidance to public water systems in Michigan. A copy of the MDEQ guidance will be included in the final report.

In the case of the Flint resident that contacted U.S. EPA (Ms. Lee-Anne Walters), the initial results from drinking water samples collected by the City of Flint in her home

for lead were 104 ug/L and 397 ug/L. The level of iron in the water also exceeded the capability of the measurement ( $>3.3$  mg/L). The lead results were especially alarming given that the samples were collected using the sampling procedures described above, which minimize the capture of lead. When contacted by U.S. EPA Region 5, the MDEQ indicated that the lead was coming from the Walters' plumbing. Ms. Walters had previously indicated that all of the plumbing in the home was plastic.

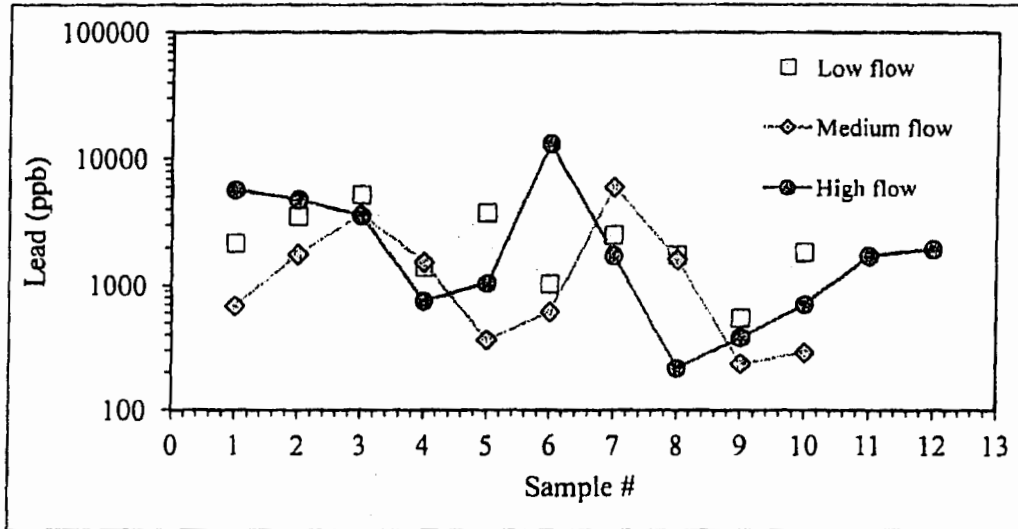
Following the confirmation of the initial high lead results, U.S. EPA Region 5 conducted two visits to the Walters' home on April 27, 2015 and May 6, 2015. Based on an inspection of the plumbing and subsequent sampling conducted at the Walters' residence, it was determined that except for a few minor metallic connectors, all interior plumbing, including the pipes, valves and connectors are made of plastic certified by the National Sanitation Foundation (NSF) for use in drinking water applications. Subsequent sampling showed that the faucets in the home appear to be compliant with the new lead-free requirements and are also not the source for the high lead levels. Our inspection of the interior plumbing and analysis of follow-up sampling results demonstrate that the home plumbing network is not the source of the high lead levels found at the Walters' residence. The photographs and all sampling results will be included in the final report.

Based on the U.S. EPA inspection and documentation of the plastic plumbing at the Walters' residence, it was suspected that the high lead was being introduced into the Walters' home plumbing from outside the home, likely from a lead service line. Three portions of the service line were extracted during a subsequent trip on May 6, 2015 and sent for analysis, when the Walters' service line was replaced. Analyses performed to date indicate that a portion of the service line is made of galvanized iron pipe. Inspection of the remaining portion from the water main to the external shut-off valve confirmed that the portion from the water main to the external shut-off valve is a lead service line.

Ms. Walters has also provided U.S. EPA with medical reports on her child's blood lead testing indicating that the child had a low blood lead level (2 ug/dL) prior to the source water switch and an elevated blood lead level following the switch (6.5 ug/dL). Redacted copies of these reports will also be included in the final report.

Subsequent to the discovery of high lead levels in the Walters' drinking water, the water to the Walters' home was shut off on April 3, 2015. The water was briefly turned back on to collect additional samples on April 28, 2015. Since the water had stagnated for an extended period of time, the kitchen tap was flushed for 25 minutes the night before collecting the samples. Three sets of samples were collected at different flow rates (10 at low flow, 10 at medium flow and 10 at high flow).

The drinking water samples collected from the Walters' residence on April 28, 2015 contained extremely high lead levels, ranging in value from 200 ug/L to 13,200 ug/L (see below).



*Sample results and graph are provided courtesy of Virginia Tech*

Additional sample results from resident-requested samples have also shown lead levels in excess of the lead action level. As with the samples collected by the City of Flint for compliance, the resident-requested samples are also being collected using the 'pre-flushing', so the lead levels captured in these samples likely do not represent the worst-case lead levels in the water and the actual lead levels at these homes may be much higher.

Pending completion of the final report, my interim recommendations are as follows:

1. The U.S. EPA should follow up with the MDEQ and the City of Flint on the recommendation made by U.S. EPA to MDEQ on June 10, 2015 to offer the City of Flint technical assistance on managing the different water quality issues in Flint, including lead in the drinking water. Although there have been two written assessments regarding water quality and operational issues in Flint at the time of this report, they do not address lead in drinking water. The first is an Operational Evaluation Report (OER) produced in November 2014 by Lockwood, Andrews and Newnam, Inc. to assess the factors contributing to high Total Trihalomethane (TTHM) levels in Flint following the source change. The focus of this report is to identify potential causes and remedial actions for lowering TTHM levels. The second report (Water Quality Report) produced by Veolia for the City of Flint on March 12, 2015, is an assessment of Flint's water quality and operations which provides advice to the City of Flint primarily focused on TTHM control and other operational issues. Both reports were written prior to the recent discovery of high lead results in Flint drinking water. As such, the reports do not take into account the potential effects on lead levels in drinking water.

As previously mentioned, the City of Flint currently has no mitigating treatment for lead and is also planning another source water change in the near future. U.S. EPA's Office of Research and Development in Cincinnati has extensive experience in corrosion and corrosion control treatment and distribution system issues and would be a valuable addition to the drinking water advisory group for the City of Flint. Copies of the qualifications and experience for Michael Schock and Darren Lytle have been forwarded to MDEQ.

2. U.S. EPA should review the compliance status of the City of Flint with respect to whether the system is in violation of the LCR requirement to install and maintain optimal corrosion control and whether the MDEQ is properly implementing the LCR provisions regarding optimal corrosion control treatment requirements for large systems. Pursuant to 40 CFR Section 141.82(i), the EPA Regional Administrator may review treatment determinations made by a State and issue federal treatment determinations consistent with the requirements of the LCR where the Regional Administrator finds: (1) A state has failed to issue a treatment determination by the applicable deadlines; (2) A State has abused its discretion in a substantial number of cases or in cases affecting a substantial population; or (3) The technical aspects of a State's determination would be indefensible in an expected Federal enforcement action taken against a system.
3. The U.S. EPA should review whether relevant resident-requested samples are being included by the City of Flint in calculating the 90<sup>th</sup> percentile compliance value for lead. Recent drinking water tests conducted at homes in Flint for lead that are not part of the compliance sampling pool have revealed high lead levels in the drinking water. The U.S. EPA memorandum signed on December 23, 2004 provides clarification on compliance determinations and states that customer-requested samples are to be included in the 90<sup>th</sup> percentile lead compliance calculation where the sampling is conducted during the monitoring period from sites and sampling procedures meeting the LCR criteria. Given the prevalence of lead service lines in the City of Flint, should these sample results be from homes with lead service lines, the sample results would be considered compliance samples under the LCR.

Also attached is a timeline of events for Flint, Michigan. Should you have any questions regarding the information or recommendations provided, please let me know.

cc: Liane Shekter-Smith (MDEQ)  
Pat Cook (MDEQ)  
Stephen Busch (MDEQ)  
Michael Prysby (MDEQ)  
Marc Edwards (Virginia Tech)  
Michael Schock, EPA-ORD  
Darren Lytle, EPA-ORD



United States Environmental Protection Agency  
Regional Administrator  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

SEP 15 2015

The Honorable Daniel Kildee  
Member, U.S. House of Representatives  
Washington, D.C. 20515-1313

Dear Congressman Kildee:

Thank you for your September 9, 2015 letter regarding drinking water quality in the City of Flint. EPA is actively working with the Michigan Department of Environmental Quality (MDEQ) to help the City provide clean and safe water.

Consistent with the recommendations in the internal memorandum cited in your letter, EPA is working with MDEQ to monitor Flint's compliance with the federal Lead and Copper Rule. On August 17, 2015, MDEQ notified Flint that additional treatment will be required to optimize corrosion control and the City is taking steps to do so. Experts from EPA's Office of Research and Development are providing technical assistance to Flint to implement those corrosion control improvements.

Flint residents who are concerned about lead in drinking water may request water sampling by the local water utility. General information about lead in drinking water and tips to reduce lead exposure are available at <http://water.epa.gov/drink/info/lead/index.cfm>

Again, thank you for your letter. We look forward to a more detailed discussion at the meeting that is being set up on Monday. In the meantime, if you have further questions, please contact me or your staff may contact Denise Fortin or Ronna Beckmann, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Hedman", is written over a horizontal line.

Susan Hedman  
Regional Administrator

DANIEL T. KILDEE  
5TH DISTRICT, MICHIGAN

COMMITTEE ON  
FINANCIAL SERVICES

SUBCOMMITTEE ON  
HOUSING AND INSURANCE

SUBCOMMITTEE ON  
MONETARY POLICY AND TRADE

SENIOR WIFE

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COMMUNICATIONS COMMITTEE



Congress of the United States  
House of Representatives  
Washington, DC 20515

October 21, 2015

Ms. Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, D.C. 20460

Administrator McCarthy:

As you know from our phone call last week, the Flint water crisis remains a critically important issue. It has become clear to me that unacceptable lead levels were a failure of government at every level. This includes both at the Michigan Department of Environmental Quality (MDEQ) and the U.S. Environmental Protection Agency (EPA). Despite evidence presented indicating the water quality was unsafe, repeated assurances were given by both the MDEQ and EPA that the water was safe to consume. Now we have learned that lead levels for months have been at dangerous levels that could potentially cause irreparable harm to Flint residents, particularly children, the elderly and those with weak immune systems.

In order to restore confidence, and to ensure that these failures never happen again, I believe that the EPA needs to conduct a thorough investigation into the causes of the water problems in Flint. The failure of government to provide safe drinking water to Flint is unacceptable, and there must be accountability.

Specifically, I am requesting assurances that, at a minimum, the EPA conduct a full review of its oversight of state programs, given delegated authority through the Safe Drinking Water Act and whether the MDEQ properly enforced the Lead and Copper Rule (LCR) and other safe drinking water programs. Additionally, an investigation that fully answers the following questions:

- Was the EPA aware that the MDEQ was using guidelines under the LCR that applied to cities with a population of less than 50,000 and not for the population of Flint, which is 99,000?
- Did the EPA notify MDEQ that the city of Flint should add a corrosion control treatment (CCT) to their drinking water following the switch to the Flint River?
- When did the EPA become aware that the city of Flint was using a lime softening agent as a CCT?

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16-000-1226

- What actions did the EPA take once they learned MDEQ was not requiring the city of Flint to use a proper CCT?
- Did EPA evaluate the testing guidelines that MDEQ was using in the city of Flint?
- When did the EPA first become aware of the potential elevated lead levels in Flint's water?
- After becoming aware of the potential elevated levels of lead, was the EPA required to notify anyone? If the EPA is not required to notify anyone, why not?
- Is there anything that prevents the EPA from notifying federally elected officials of potentially unsafe water in the city of Flint?
- Since switching to the Flint River, has EPA verified the city of Flint's compliance with the LCR themselves?
- Has EPA reviewed MDEQ's performance in regards to its delegated authority to enforce the LCR and other Safe Drinking Water Act regulations? If not, how come?

Unfortunately, the citizens of Flint are the victims in this situation. They deserve a thorough investigation and answers to these questions.

Due to the immediate need of the community, I am requesting a response by Tuesday, October 27, 2015. If you are unable or unwilling to conduct a thorough and independent review, I ask that you inform me by that date so I can move forward in seeking the answers my community deserves.

I look forward to hearing from you on this critical and important matter.

Sincerely,



Dan Kildee  
MEMBER OF CONGRESS



United States Environmental Protection Agency  
Regional Administrator  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

NOV 03 2015

The Honorable Daniel Kildee  
Member, U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kildee:

Thank you for your October 21, 2015 letter to Administrator McCarthy requesting that the U.S. Environmental Protection Agency conduct a full review of actions taken to address drinking water quality issues in Flint, Michigan.

As discussed during our October 28<sup>th</sup> conference call, the Administrator has asked me to carry out the review that you requested and we expect to complete that process by the end of this week. I look forward to meeting with you at 9 a.m. on November 10<sup>th</sup> at your Flint Office to walk you through a detailed timeline and to answer your questions. After that briefing, I would like to introduce you to members of EPA's Flint Safe Drinking Water Task Force and offer an opportunity for you to talk with them about the technical assistance that EPA is providing to the Michigan Department of Environmental Quality and the City of Flint.

In the meantime, if you have further questions, please contact me or your staff may contact Denise Fortin or Ronna Beckmann, the Region 5 Congressional Liaisons, at (312) 886-3000.

Thank you again for your letter – and I look forward to seeing you on November 10<sup>th</sup>.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Hedman", is written over a horizontal line.

Susan Hedman  
Regional Administrator

16-000-1225

DANIEL T. KILDEE  
5TH DISTRICT, MICHIGAN

COMMITTEE ON  
FINANCIAL SERVICES

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Congress of the United States  
House of Representatives  
Washington, DC 20515

WASHINGTON OFFICE

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/REP.DANKILDEE  
 @REP.DANKILDEE

October 9, 2015

Administrator Gina McCarthy  
Environmental Protection Agency  
Office of the Administrator 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Administrator McCarthy:

I am writing to request that the U.S. Environmental Protection Agency (EPA) use its oversight powers to send engineering technical experts to Flint, Michigan, to work in coordination with state and local officials during the change from the Flint River back to Lake Huron as its raw water source. Currently, the state of Michigan has been given delegated authority by the EPA to monitor drinking water quality.

In multiple previous instances, however, the Michigan Department of Environmental Quality (MDEQ) has failed to provide the necessary expertise to deliver safe drinking water to the residents of Flint:

- There were five violations of the National Primary Drinking Water Regulations from August 2014 to June 2015.
- MDEQ failed to require optimized corrosion control treatment be added to the water, even though they knew the city of Flint had over 15,000 lead service lines.
- MDEQ said they were using a lime softening agent as a corrosion control treatment. Independent studies have shown that the lime softening agent makes the water more corrosive, not less.
- MDEQ failed to accurately test the water system for lead, violating the Safe Drinking Water Act's Lead and Copper Rule.

As a result of these failures, medical experts in Flint have reported elevated levels of lead in children 5 years-of-age and younger, which can cause permanent harm to children. Simply, we cannot allow the same mistakes to happen again.

Thus, yesterday my staff spoke with Peter Grevatt, EPA's Director of Ground and Drinking Water about this issue. Mr. Grevatt, however, indicated that the EPA is unable to offer additional assistance to Flint because it does not have a water system operator. He also indicated that Flint would be best served by the current amount of technical advice it is receiving from EPA.

Due to the past failures by MDEQ and the conversation my staff had yesterday with Mr. Grevatt, I feel that the current level of oversight is severely inadequate and the people in Flint remain at an increased health risk. Therefore, I am requesting that: 1) you confirm what exact technical assistance you are providing to state and local officials. How many experts are working on Flint related issues and who are they?; and 2) EPA send engineering technical experts to Flint to work with state and local officials to ensure the drinking water is safe.

Moreover, I would like to request a meeting with you to discuss this issue as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Kildee", with a long horizontal flourish extending to the right.

Dan Kildee  
MEMBER OF CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (201) 225-5074  
 MINORITY (202) 225-5051  
<http://oversight.house.gov>

January 29, 2016

The Honorable Gina McCarthy  
 Administrator  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Avenue, NW  
 Washington, D.C. 20460

Dear Administrator McCarthy:

Press reports have raised serious questions about the Environmental Protection Agency's performance with respect to alerting the public about a health crisis related to the Flint, Michigan water supply.<sup>1</sup> The agency knew about contaminants in the drinking water in Flint by February 2015, when Regulations Manager Miguel Del Toral identified potential problems related to Flint's failure to prevent lead from leaking into the water supply.<sup>2</sup> It was months before Mr. Del Toral's concerns were made public, and only then because his findings were leaked.<sup>3</sup>

On June 24, 2015, Mr. Del Toral produced a lengthy internal memorandum that detailed "a number of water quality issues" in Flint and recommended immediate steps to remedy the problem.<sup>4</sup> Mr. Del Toral warned that the high concentrations of lead and other substances in the water supply as a result of the absence of corrosion control mechanisms posed a serious threat to the people of Flint. He wrote:

A major concern from a public health standpoint is the absence of corrosion control treatment in the City of Flint for mitigating lead and copper levels in the drinking water. Recent drinking water sample results indicate the presence of high lead results in the drinking water, which is to be expected in a public water system that is not providing corrosion control treatment. The lack of any mitigating treatment for lead is of serious concern for residents that live in homes with lead service lines, which are common through the City of Flint.<sup>5</sup>

<sup>1</sup> See, e.g., Jim Lynch, *EPA stayed silent on Flint's tainted water*, THE DETROIT NEWS, Jan. 12, 2016.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Memorandum from Miguel Del Toral, EPA Regulations Manager, to Thomas Roy, Chief, EPA Ground Water and Drinking Water Branch (June 24, 2015), <http://flintwaterstudy.org/wp-content/uploads/2015/11/Miguels-Memo.pdf>.

<sup>5</sup> *Id.*

Mr. Del Toral's memorandum raised concerns in the Flint community after it was leaked to the public in July 2015.<sup>6</sup> Despite the serious findings therein, Region 5 Administrator Susan Hedman advised Flint's mayor that "it would be premature to draw any conclusions" about lead in Flint's water supply based on the memo.<sup>7</sup>

As the situation quickly grew worse, Ms. Hedman repeatedly refused to take much-needed action and instead made excuses that showed a clear lack of concern for the citizens of Flint, and a failure to grasp the seriousness of the problem.<sup>8</sup> By late 2015, the City of Flint had declared an emergency due to the drinking water crisis.

It is clear that EPA Region 5, at Ms. Hedman's direction, failed to promptly and properly respond to the Flint water crisis. Ms. Hedman ultimately resigned for that reason.<sup>9</sup> Her sudden departure, however, raises serious questions about EPA's response to the Flint crisis. In order for the Committee to better understand this issue, please make Ms. Hedman available for a transcribed interview as soon as possible. Additionally, provide the following documents and information:

1. All documents and communications to or from Ms. Hedman referring or relating to Flint's water supply.
2. All documents and communications to or from Ms. Hedman referring or relating to Miguel Del Toral from January 1, 2015, to the present.
3. All documents and communications to or from Ms. Hedman referring or relating to the June 24, 2015, memorandum by Miguel Del Toral.
4. All documents and communications referring or relating to Ms. Hedman and the Safe Drinking Water Act.
5. All documents and communications to or from Miguel Del Toral referring or relating to Flint, his June 24, 2015, memorandum and his work duties at EPA between January 1, 2015, and November 1, 2015.

Please provide the requested information as soon as possible, but no later than 5:00 p.m. on February 9, 2016. When producing documents to the Committee, please deliver production sets to the Majority staff in Room 2157 of the Rayburn House Office Building and the Minority staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible,

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<sup>6</sup> Lindsey Smith, *Leaked internal memo shows federal regulator's concerns about lead in Flint's water*, Michigan Radio, Jul. 13, 2015, available at <http://michiganradio.org/post/leaked-internal-memo-shows-federal-regulator-s-concerns-about-lead-flint-s-water#stream/0> (last visited Jan. 26, 2016).

<sup>7</sup> Whet Moser, *What Did the EPA Do Wrong in Flint?*, CHICAGO MAG., Jan. 25, 2016.

<sup>8</sup> Jim Lynch, *EPA stayed silent on Flint's tainted water*, THE DETROIT NEWS, Jan. 12, 2016.

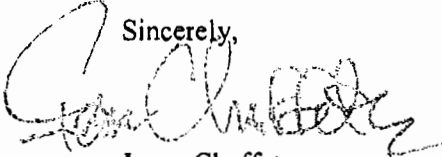
<sup>9</sup> Melissa Nann Burke and Jim Lynch, *Top EPA official in Midwest resigning amid Flint crisis*, THE DETROIT NEWS, Jan. 21, 2016.

The Honorable Gina McCarthy  
January 29, 2016  
Page 3

to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact William McGrath at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this important matter.

Sincerely,  
  
Jason Chaffetz  
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

### **Responding to Committee Document Requests**

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;  
  
BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,  
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,  
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,  
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,  
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,  
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 05 2016

OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

The Honorable Jason Chaffetz  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your January 29, 2016, letter to Administrator Gina McCarthy, expressing concern regarding the current drinking water crisis in Flint, Michigan. The testimony presented before your Committee on February 3, 2016, by Joel Beauvais, the U.S. Environmental Protection Agency's Deputy Assistant Administrator for Water, emphasized the agency's commitment to immediate and sustained action, in coordination with our state and local partners, to address this serious public health emergency.

The Committee has requested certain documents relating to this public health emergency. In accordance with an agreement with your staff, we are enclosing with this letter an initial production of responsive documents.

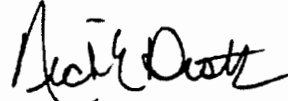
Please note that portions of your request examine internal deliberations of an Executive Branch agency, the EPA, and, as such, raise a confidentiality interest. In order to identify specific documents in which the EPA has a confidentiality interest, we have added a watermark to these documents that reads "Internal Deliberative Document of the U.S. Environmental Protection Agency; Disclosure Authorized Only to Congress for Oversight Purposes." Through this accommodation, the EPA does not waive any confidentiality interests in these documents or similar documents in other circumstances. The EPA respectfully requests that the Committee and staff protect the documents and the information contained in them from further dissemination. Should the Committee determine that its legislative mandate requires further distribution of this confidential information outside the Committee, we request that such need first be discussed with the agency to help ensure the Executive Branch's confidentiality interests are protected to the fullest extent possible.

You will also notice that some of the documents contain redactions of personal privacy information. We redacted this information in a manner that does not obscure the identity of any individuals involved in the relevant communications. The personal privacy redactions are labeled as "Ex. 6 - Personal Privacy" only because these documents were collected in the context of a previous FOIA request; while preparing these documents for delivery to you today, we took off all other FOIA redactions.

The EPA recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions, and is committed to continuing to work with your staff on how best to accommodate the Committee's interests in these documents. We anticipate providing additional responsive documents on a rolling basis.

Again, thank you for your letter. If you have any further questions, you may contact me or your staff may contact Tom Dickerson in the EPA's Office of Congressional and Intergovernmental Relations at [dickerson.tom@epa.gov](mailto:dickerson.tom@epa.gov) or (202) 564-3638.

Sincerely,

A handwritten signature in black ink, appearing to read "Nichole Distefano".

Nichole Distefano  
Associate Administrator

Enclosures

cc: The Honorable Elijah J. Cummings  
Ranking Member

Enclosures    Exemption 5 (deliberative)